Calendar No. 467

98TH CONGRESS
1st Session

SENATE

REPORT
No. 98-270

UNIVERSAL TELEPHONE SERVICE PRESERVATION ACT OF 1983

REPORT

together with

MINORITY VIEWS

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 1660

RELATING TO THE PRESERVATION OF UNIVERSAL TELEPHONE SERVICE

OCTOBER 7 (legislative day OCTOBER 3), 1983.—Ordered to be printed

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Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 1660]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1660) relating to the preservation of universal telephone service, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

PURPOSE OF THE BILL

First, a purpose of this bill is to ensure that in exercising its responsibilities under the Communications Act of 1934 as amended, the Federal Communications Commission maintains the availability of universal telephone service while it implements other statutory objectives, including service quality, fair competition among competitive service providers, improvement of technologies and service, and promotion of safety of life and property through the use of telecommunications. These goals have been, in part, addressed in the past through existing separation and settlements procedures. As competition has evolved, and under provisions of the Modification of Final Judgment entered in *United States* v. *American Telephone and Telegraph Company,* 552 F.Supp. 131 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States,* 103 S.Ct.

1240 (1983), the Commission has substituted a system of access charges and tariffs for previous revenue pooling and disbursement procedures. As part of these access charges, the Commission imposed flat-rate end-user charges. The bill suspends for 2 years the FCC's imposition of flat-rate end-user access charges for interstate access on residential and single-line business subscribers to telephone service, Phase I, pending an investigation and report to the Congress by the Commission on the effects of such charges.

Second, the bill is intended to ensure that all entities which utilize interstate communications facilities contribute to the costs of exchange telephone facilities and services on which they depend, through direct or indirect interconnection. Direct exchange access charges are authorized for interconnected usage of exchange facilities and services in circumstances where such usage may be measured directly by providers of exchange facilities and services. Charges, patterned after those adopted by the Commission in its decisions in C.C. Docket No. 78-72, Phase I, are authorized in cases of direct and indirect interconnection where it is presently infeasible to measure such usage.

Third, a purpose of the bill is to ensure that revenue pooling and disbursement procedures, as well as charges from carriers and persons which offer, own, operate or control services or facilities that are similar to those provided by exchange carriers, support high cost and "lifeline"-type local telephone services. To this end, the Joint Board established in this bill is directed to establish a Universal Service Fund to defray the costs of exchange carriers that exceed 110 percent of the national average and further, provide for partial reimbursement of the costs of "lifeline" basic exchange telephone services.

Fourth, a purpose of the bill is to grant the Commission authority to place in effect transitional access charge and tariff procedures, pending adoption of final access charge and tariff procedures, so that a system of access charges may be made effective contemporaneously with divestiture by AT&T Company of the Bell Operating Companies. It is the intention of the Committee that the Commission may rely on the record compiled in the Commission's C.C. Docket No. 78-72, Phase I proceedings, and related proceedings, for the purpose of making such modifications to the Commission's system of access charges and tariff procedures to ensure appropriate compensation of exchange carriers in light of the 2-year suspension of certain end-user access charges.

And fifth, a purpose of the bill is to provide time for the preparation of a report by the FCC on the changing competitive environment and universal telephone service. Congress will have sufficient time to review this report and take whatever action is necessary.

Background and Need

TECHNOLOGY

The Communications Act of 1934 was drafted when ordinary telephone and telegraph services were the only communications services available. Telephone terminal equipment consisted of the telephone and basic teletypewriter (for sending telegraph messages).

These services were transmitted over ordinary copper wires, manually or with relatively simple electromechanical systems. Automated data processing services did not exist.

In contrast, terminals today range from the familiar dial telephones to literally hundreds of different devices, such as facsimile, word processing, data processing, and automatic answering terminals using sophisticated electronic telephone and switchboard systems. New services include not only telephone and telegraph offerings, but also high speed computer, data communications, electronic message, video transmission and teleconferencing services. There are now a multiplicity of transmission media available, including microwave, satellite, coaxial and fiber optic cable, and computerized switching.

These technological advancements, together with decisions made in the past 15 years by the FCC and the courts, have created a new competitive environment for the delivery of communications goods and services. Under these decisions the telephone industry is moving from a predominantly monopoly-based industry, to one that is competitive. The new competitive environment has tremendous potential to increase the choices for the consumer at lower prices, but this change raises concerns about universal telephone service.

For 40 years, telephone companies (Bell System companies and independent telephone companies) have been required by federal and state regulators to use revenues from long distance service to subsidize local telephone service. This policy along with technological advancements and certain government programs have been instrumental in making affordable telephone service available throughout the United States. As we move to a more competitive environment, the challenge is to maintain universal telephone services.

PREVIOUS SENATE ACTION

In 1981, recognizing the need to update the Communications Act of 1934 because of the changing environment, the Senate sought through the passage of S. 898, to establish a new regulatory structure that would have preserved basic univeral telephone service at reasonable rates. That legislation would have replaced the existing revenue pooling and disbursement procedure with an access charge mechanism which required all long distance carriers to pay local telephone companies for the cost of using their facilities. S. 898 gave the states a significant role in the decisions necessary to preserve reasonable rates. Telephone service in rural or remote areas would have been protected from unreasonable rate increase by a surcharge or long distance service. The House of Representatives did not act of S. 898 in 1981 or 1982, and no legislation was enacted.

AT&T/JUSTICE DEPARTMENT—CONSENT DECREE

In 1974, the Department of Justice brought an antitrust suit against AT&T based on that company's alleged efforts to engage in anticompetitive activities. Relief sought by the Department included the divestiture of Western Electric and the Bell Laboratories.

For 8 years, the parties engaged in pretrial procedures but in 1981, U.S. District Judge Harold Greene moved the case to trial.

In January of 1982, AT&T and the Department reached a settlement of that case and agreed on the terms of a proposed consent decree. Although the proposed decree was later modified by Judge Greene, the essential element is that the 22 Bell operating companies will become 7 separate organizations on January 1, 1984. AT&T long-distance service (domestic and international), manufacturing (Western Electric), and research (Bell Laboratories) will continue to be part of the parent company. While the consent decree required the establishment of cost-based access charges, implementation was left to the FCC.

FEDERAL COMMUNICATIONS COMMISSION

The FCC after working on this matter since 1978, issued its initial Access Charge Decision on December 22, 1982, and on July 27, 1983 the Commission modified that decision. The basic elements of the modified decision are as follows:

Customers

All customers, including residential and business customers, would pay for access to the long distance network. All business and residential customers would have a separate access charge added to their monthly telephone bill, regardless of whether a long-distance call is made during that billing period. This charge would be phased in over a 6.year period beginning with a maximum $2 per month charge on residential telephones on January 1, 1984. Business customers would begin paying $6 a month on Janauary 1, 1984. Thereafter, the level of charges, both on residential and business customers, would be determined by the level of local telephone plant costs.

Long-distance carriers

The charges on long distance carriers that presently subsidize local telephone service would be phased out over the 6-year transition period except for surcharges paid to the universal service fund.

The long-distance carriers would pay the local telephone companies for the "traffic sensitive" costs (costs that vary with usage) related to the origination and termination of long-distance telephone calls.

LEGISLATIVE HISTORY

The issues raised in S. 1660 were initially addressed during the 96th Congress. Several bills were introduced to amend the Communications Act of 1934 to provide improved telecommunications service and equipment, to encourage and develop marketplace competition, and to deregulate such services and equipment. S. 611, a bill "to amend the Communications Act of 1934 . . . to provide for improved domestic telecommunications and international telecommunications, rural telecommunications development, to establish a national commission on spectrum management, and for other purposes" was introduced on March 12, by Senators Hollings, Cannon, and Stevens. S. 622 a bill "to amend the Communications Act of

1934 in order to encourage and develop marketplace competition in the provision of certain services and to provide certain deregulation of such services, and for other purposes" was introduced on March 12, 1979, by Senators Goldwater, Schmitt, Pressler, and Stevens. Hearings were held for both S. 622 and S. 611 on April 24, 25, 26, 27, 30; May 1, 2, 3, 9, 10, 11, 16; June 5, 6, 7, 8, 13, 14, 15, 18, 19, and 25, 1979. The Communications Subcommittee heard testimony from 171 witnesses.

In the second session of the 96th Congress, on June 12, 1980, Senators Hollings, Cannon, Packwood, Goldwater, and Schmitt introduced S. 2827 to "amend the Communications Act of 1934, to provide for improved domestic and international telecommunications, rural telecommunications development, and for other purposes". No hearings were held on S. 2827.

S. 898, the Telecommunications Competition and Deregulation Act of 1981, a bill "to amend the Communications Act of 1934 to provide for improved domestic telecommunications, and for other purposes," was introduced during the first session of the 97th Congress on April 7, 1981, by Senators Packwood, Goldwater, Schmitt, and Stevens. The full Commerce Committee held hearings on June 2, 11, 15, 16, 19, and 22, 1981.

The Senate passed S. 898 on October 7, 1981, by a vote of 90 to 4. The House of Representatives did not pass legislation dealing with these issues.

In the 98th Congress, six bills were introduced in the Senate during the 1st session (1983) to amend the Communications Act of 1934 in order to ensure the continuation and preservation of universal telephone service. On May 25, 1983, Senators Stevens, Pressler, Murkowski, and Exon introduced S. 1382. The purpose of this bill was to ensure the availability of basic telephone service at reasonable rates. Senator Sasser introduced S. 1626 on July 15, 1983. This bill also related to the continuation of universal telephone service. Senator Lautenberg introduced S. 1677 on July 25, 1983. The primary goal of this bill was to ensure telephone service at subsidized lifeline rates to people in the United States who could not otherwise afford telephone service. The bill would also delay imposition of access charges for 1 year. Senator Hawkins introduced S. 1831 on September 12, 1983. The approach of S. 1831 was to ensure that states had sufficient regulatory authority to maintain universally affordable telephone service. Senator Hawkins also introduced S. 1830 on September 12, 1983. This bill would delay the effect of the FCC's decisions in C.C. Docket No. 78-72, Phase I, until January 1, 1985. The purpose of the delay would be to assure that Congress had adequate time to assess the impact of the divestitute of AT&T on universal service and local rates.

Senator Packwood and 30 cosponsors introduced S. 1660 on July 21, 1983. The goal of this bill is to ensure basic exchange telephone service throughout the Nation.

Specifically, S. 1660, as introduced, prohibited the imposition of flat fees to recover nontraffic sensitive interstate costs from residential and business customers. It provided that high cost exchange companies would be reimbursed for the cost of providing basic telephone service. The revenue to reimburse the exchange companies would be recovered by a surcharge on long distance carriers using

the services of exchange companies through direct or indirect connection. Finally, the bill provided that the FCC and each state regulatory authority would ensure basic telephone lifeline services to persons within the jurisdiction of the state authority.

The purposes of S. 1660 are similar to those of S. 898. The primary purpose is the need to ensure the preservation of universal telephone service in an increasingly competitive marketplace. Two days of joint committee hearings were held at the full committee level between the Senate Committee on Commerce, Science, and Transportation and the House Committee on Energy and Commerce. The first day of the hearings, July 28, 1983, lasted approximately 8 hours with testimony from a broad representation of interested parties. The witnesses were the Honorable Mark Fowler, Chairman, FCC; Mr. Edward Hipp, commissioner, North Carolina Public Utilities Commission; Mr. Eric Schneidewind, chairman, Michigan Public Utilities Commission; Ms. Susan Leisner, commissioner, Florida Public Utilities Commission; Ms. Lisa Rudd, commissioner of Administration, Department of Administration, State of Alaska; Mr. Rollie Nehring, president, Arizona Telephone Company; Mr. Robert Snedaker, president, United Telephone System; Mr. Evan Copsey, president, Fidelity Telephone Company; Mr. Lawrence Ware, manager, Garden Valley Telephone Company; Mr. Jack Keene, president, Western New Mexico Telephone Company; the Honorable Robert D. Orr, Governor, State of Indiana, and chairman, Committee on Transportation, Commerce, and Technology, National Governors Association; Mr. Andrew V. Smith, president, Pacific Northwest Bell; Mr. Delbert C. Staley, president, New York Telephone; Mr. John Clendenin, chairman of the board, Southern Bell Telephone & Telegraph Company; Mr. Raymond T. Smith, president, Pennsylvania Bell Telephone Company; Mr. Donald E. Guinn, chairman of the board, Pacific Telephone and Telegraph Company; Mr. Ormand J. Wade, president, Illinois Bell Telephone Company; and Mr. John E. Hayes, vice president, Southwestern Bell Telephone Company.

The second day of the hearings of July 29, 1983 lasted approximately 7 hours. The witnesses were Mr. James B. Booe, executive vice president, Communications Workers of America; Mr. Robert Nichols, legislative and regulatory counsel, Consumers Union; Mr. Sam Simon, executive director, Telecommunications Research and Access Center; Mr. Gene Kimmelman, attorney, Public Citizen's Congress Watch; Mrs. Vita Ostrander, vice president, American Association of Retired Persons; Mr. Michael Woody, director of telecommunications, State of Washington; Mr. Charles L. Brown, chairman of the board, American Telephone & Telegraph Company; Mr. Theodore Brophy, chairman and chief executive officer, General Telephone & Electronics Corp.; Mr. William C. McGowan, chairman of the board, MCI Telecommunications Corp.; Mr. Robert M. Flanagan, chairman of the board and chief executive officer, Western Union; and Mr. Neal J. Robinson, executive vice president, U.S. Telephone Communications, Inc.

A field hearing was held on S. 1660 on August 29, 1983, by the Senate Commerce Committee in Vancouver, Wash. The witnesses were: The Honorable Al Williams, Chairman, and the Honorable Seth Armstrong, Vice Chairman, Joint Select Committee on Tele-

communications, Washington State Legislature; The Honorable Mary Hall, commissioner, Washington Utilities and Transportation Commission; Mr. George A. Walker, vice president, Pacific Northwest Bell; Mr. William E. Stern, vice president, General Telephone of the Northwest; Mr. David King, chairman, Washington Independent Telephone Association Settlements Committee, United Telephone of the Northwest; Mr. A. M. Gleason, chief executive officer, Pacific Telecom; Mr. Jon C. Erickson, vice president and general manager, Peninsula Telecom; Mr. Carlton Appelo, manager, Western Wahkiakum Telephone Company; Mr. Herbert N. Jasper, executive vice president, American Council for Competitive Telecommunications; Mr. F. Thomas Tuttle, vice president, Satellite Business Systems; Mr. Al Horley, Vitalink Communications Corporation; Mr. M. U. Ayres, general manager, Network Services, Boeing Computer Services; Mr. Ray Hill, master, Washington State Grange; Mr. Gary Smith, executive director, Independent Business Association; and Mr. Robert Ells, chairman, Legislative Committee, National Association of Retired Persons.

The hearings held during this session of Congress contributed to the substantial record already established by the Senate Commerce Committee in previous years on the necessity of continuing the nation's universal telephone service.

The Committee on Commerce, Science, and Transportation met in open markup session on September 20, 1983 to consider S. 1660. The Committee, after considerable debate, approved a substitute to S. 1660 offered by Senator Lautenberg. The substitute would have placed a moratorium on residential end user charges until January 1, 1985. It also required the FCC to conduct an investigation and report to Congress by January 1, 1985 on the impact of the divestiture of AT&T, the impact of recovering nontraffic sensitive costs from flat charges on customers, and the impact of other FCC and state regulatory commission actions on universal telephone service.

The Committee voted to delay reporting this substitute and agreed to meet again in an executive session on September 27, 1983. On September 27, 1983 the Committee unanimously agreed to reconsider the Lautenberg amendment. The members at this time discussed the provisions of a new substitute to S. 1660 and laid out the policy which the substitute would contain. On September 30, 1983, the Committee voted 15–2 to adopt and report a Committee substitute to S. 1660.

Discussion of Major Issues

POLICY

Local telephone rates are going up for many reasons: inflation; more rapid equipment depreciation; increased rates of return; and the end of indirect subsidies. The divestiture of AT&T has had the effect of accelerating many of these factors, and the FCC's access charge decision makes a significant reallocation of costs—without the approval of Congress—that will also cause many customers' telephone bills to rise. The responsibility for ensuring that universal telephone service is preserved is spread among many parties: Federal and State regulators; the courts; and the industry. Con-

gress also has a key role. The Congress clearly is able to help ensure that rates are kept reasonable so that people do not discontinue telephone service. That is the thrust of the current legislation. In particular, this legislation addresses the problems raised with the access charge decision of the Commission and its effect on universal telephone service.

It has been the policy for decades in this country for long distance service to subsidize local rates in order to help ensure that basic telephone service remains both univerally available and affordable. In 1984, the long distance subsidy of local rates is projected to be approximately $11 billion, this amount having grown substantialy in recent years. The FCC's access charge decision would, over a 6-year period, shift the responsibility for paying a substantial part of this subsidy from long-distance users to all local exchange customers. This would be accomplished by requiring people with telephones in their homes and businesses, including small businesses, to pay billions of dollars more in local telephone rates, whether or not these customers use long-distance service.

In 1984, the FCC decision would shift approximately $3,500 million from long distance rates to local rates. AT&T has announced a long distance rate reduction of $1,750 million in 1984. This would reduce long-distance rates by a little more than 10 percent on the average (although the decrease will be less for shorter haul long distance calls).

According to AT&T, the average residential long-distance bill per month is $19. In order for AT&T's 10 percent long distance reduction to actually lower the total residential bill, a customer's monthly long distance bill would have to exceed $20 in 1984 due to the $2 access charge the FCC would impose. In fact, it is estimated that 10 percent of the residential long distance customers make 50 percent of the residential long distance calls. Further, it is estimated that 4 percent of the business customers make 62 percent of all long-distance calls; both figures indicate that a relatively small number of customers will be the main beneficiaries of lower long distance rates.

AT&T indicates that the rate reduction is contingent on the FCC's access charge decision going into effect January 1, 1984. While AT&T is encouraged to implement this rate reduction, the Committee emphasizes that it is not the average residential customer who will benefit from reducing long distance rates and loading these costs on to local rates.

The policy of universal service supported by long distance carriers was not changed by the settlement between AT&T and Department of Justice resulting in the divestiture of the Bell Operating Companies. In fact, in his April 20, 1983 ruling, Judge Greene took issue with the Commission's Access Charge Decision:

> The Court has therefore noted with considerable surprise and some dismay that the Federal Communications Commission, far from using the access charge tool as a means for easing the burdens on the users of local telephone service, has opted instead in a major decision issued since the Court's approval of the consent decree, to saddle local subscribers with the access costs of interexchange

carriers. Curiously, although the FCC cites that decree and ostensibly regards its decision as assisting in its implementation, *the agency's action runs directly counter to one of the decree's principal assumptions and purposes—that the fostering of competition in the telecommunications field need not and should not be the cause of increases in local telephone rates. United States* v. *AT&T Company,* —— F.Supp. ——, ——, 1983-1 CCh Trade Cas. Sec. 65, 333 atp. 69, 973 (D.D.C. 1983) (emphasis added).

In a ruling issued on July 8, 1983, Judge Greene commented further on this point:

> The Court has previously taken note of the recent decision of the Federal Communications Commission. . . . *Briefly, the Court was advised prior to the entry of the decree that whatever subsidy from long distance rates might in the past have been inherent in the local rate structure could and would be preserved by means of access charges levied on interexchange carriers. However, in December of last year, the FCC decided to levy such charges also on individual subscribers. This access charge decision undermines one of the assumptions underlying the Court's approval of the decree—that there would be no impairment of the principle of universal service—that is that everyone, regardless of income, would have access at least to a minimum of telephone service, in recognition of the fact that this service is a necessity rather than a luxury. The FCC's decision unnecessarily jeopardizes this objective* (opinion unreported) (emphasis added).

As a result of the FCC decision and other factors, the rate increases granted in 1982 and 1983 and the requests pending before the State Commissions, universal telephone service is threatened.

SUMMARY OF LOCAL RATES, REQUESTS, AND AWARDS

State	1982		1983		Current average residential rate	Proposed average residential rate	Comments
	Request	Award	Request	Award			
Alabama				52.5			South Central Bell.
Alaska							
Arkansas	26.1	18.7	[1] 137.9				Southwestern Bell.
Arizona	84.8	60.2	79				Mountain Bell.
California	475	50.7					GT&E.
	6.7	3.8					Roseville Tel.
	31.1	12.7					Continental Tel.
			1,248				Pacific Bell.
Colorado	127.4	38.5	[4]		9.66		Mountain Bell.
Connecticut	3.3	2.5			6.25–12.40		New York Bell.
	127.9	89					Southern New England.
DC	91.3	40.3	81.7	39.8	2.20–8.83	5.66–8.46	C&P.
Delaware	2	1.9	15.9	7.4			Diamond State Tel.
Florida			349	114.7			Southern Bell, no local service increase.
			[2] 269				Southern Bell.
Georgia	180	75.4	158.5				Southern Bell.
Hawaii							Hawaiian Tel. filed for $47.6 million rate increase in 1981.

SUMMARY OF LOCAL RATES, REQUESTS, AND AWARDS—Continued

State	1982 Request	1982 Award	1983 Request	1983 Award	Current average residential rate	Proposed average residential rate	Comments
Idaho	26.2	7.3					Mountain Bell.
	4.2	4.2	34	15.6			Mountain Bell.
			1				Pacific Northwest Bell.
Illinois	406	217.7	42.5	21.2			Illinois Bell.
			[1] 259				Illinois Bell.
			31.5	21.7			GT&E.
			4.9	3.6			Ill. Consolidated Tel.
Indiana	85.4	79.6	[1] 127.7		11.55	13.97	Indiana Bell.
Iowa	31.8	24.2	44.7				Northwestern Bell.
Kansas	80.5	46.7	63.7	19.6	9.00	18.50	Southwestern Bell.
			[1] 213.7				Southwestern Bell.
Kentucky	66.1	14.5	3.4	4.6	13.60	30.00	South Central Bell.
			[1] 163.2				
			6.6	6.5			Cincinnati Bell.
			[1] 31.3		13.05	19.92	GT&E.
Louisiana			238.6	41.5			South Central Bell.
Maine	49.8	11.4			9.19		New England Bell.
Maryland	202	95.3	165	44.2		18.95–21.30	C&P.
			[1] 218				C&P.
Massachusetts	60	19.1					New England Bell.
Michigan		28.8	45.5		8.16	14.17	GT&E.
	73	69	452	182.3	9.32	17.00	Michigan Bell.
Minnesota	6.7	4.1	5.7	3.7			United Tel.
	96.4	59.6	83.6	52.6			Northwestern Bell.
			7.2	4.8			Continental Tele.
Mississippi	98.2	0					South Central Bell.
Missouri	134.1	12.3	254.8	63.8			Southwestern Bell.
			9	5.4			Continental Tel.
			11.2	2.0			United Tel.
			5.3	1.0			GT&E.
Montana	27	8.1	20.7		7.67	11.52	Mountain Bell.
Nebraska	5.7	4.5	1.1	1.1			Lincoln Tel.
			7.0				Lincoln Tel.
			33	6.2			Northwestern Bell.
			2.2		6.85	10.61	United Tel. West.
Nevada	16.4	1.9	13.1	5.9			Nevada Bell.
New Hampshire	13.7	8.4					New England Bell.
New Jersey	225.1	137.9	215.8		6.71	9.48	New Jersey Bell.
New Mexico			55.6	30			Mountain Bell.
			86.1				Mountain Bell.
New York	33.4	20.6			9.09	11.74	Rochester Tel.
	644.3	361.6	877.8	223.9			New York Bell.
	116.3	99.3	160.7	54.4			New York Bell.
			774.5		7.54	14.42	New York Bell.
North Carolina	129	81.8	145				Southern Bell.
North Dakota			19.6		9.90	16.30	Northwestern Bell, Granted $9.9 million in 1981.
Ohio	27.8	19.4					United Tel.
			42.7	10.6			Cincinnati Bell.
	124.3	102.2	187.5	103.6			Ohio Bell.
			178.7		12.95	18.80	Ohio Bell.
Oklahoma		16.4	233.6				Southwestern Bell.
Oregon			1.9	1.1			Continental Tel.
	36.6	26.3	73.9	38.4			Pacific Northwestern Bell.
				10.1			GT&E.
Pennsylvania	426	255.6	378.9				Bell of Pennsylvania.
Rhode Island	17.4	6.5	37.4				New England Bell.
	7.6	7.2					New England Bell.
	2.1	2.1					New England Bell.
South Carolina	87.6	72.2	98.5	20.3			Southern Bell.

SUMMARY OF LOCAL RATES, REQUESTS, AND AWARDS—Continued

State	1982		1983		Current average residential rate	Proposed average residential rate	Comments
	Request	Award	Request	Award			
South Dakota	16.5	11.5	16.8		9.92	18.49	Northwestern Bell.
	11.7	4.9					Northwestern Bell.
Tennessee	130.5	49.4	[1] 279.7		12.35	29.15	South Central Bell.
Texas			428.8	221.8			Southwestern Bell.
			1,200				Southwestern Bell.
			85.4				Gen. Tel. of Southwest.
Utah	33.2	22.6	78.8	36.6			Mountain Bell.
			43.2				Mountain Bell.
Vermont			16.5	7.8			New England Bell.
Virginia	5.2	2.2					Central Tel.
	10.6	5.7					Continental Tel.
			5.3	0	13.24	17.99	United Inter-Mountain Tel.
	81.3	77.6	133.5	63.8			C&P.
			[1] 134.8				
Washington			146.7	71.9			Pacific Northwest Bell.
			4.7	1.9			Continental Tel.
West Virginia	69.1	32.1	58.4	26.9	11.36–17.77	28.45	C&P.
			94.1				C&P.
Wisconsin	95.4	61.8					Wisconsin Bell.
	136	55.1			11.34	15.19	Gen. Tel. reduced price of telephone.
Wyoming	5.6	1.4	2.6	2.6			Mounntain Bell.
	26.7	5.4	16				Mountain Bell.

[1] Request filed on a "divested" basis, includes intrastate access charges.
[2] Intrastate access charge filing.

Sources: Telecommunications Reports; Bulletin of the National Association of Regulatory Utility Commissioners; Center for Communications Management, Inc.; Telephone interviews with State officials; Current and proposed average residential rates are taken from filings by state PSCs before FCC in Docket 83-788.

Notes.—Where an award is specified, the amounts requested and awarded both appear under the year of the award, even if the request was made in previous years.

The Committee is seriously concerned that these rate increases would reduce the number of households with telephone service by substantial percentages, particularly among minorities and the rural and urban poor. As Judge Greene pointed out:

> The FCC appears to have recognized the seriously adverse effects its decision may have in this regard, but the various mechanisms referred to in the decision to alleviate the problem (e.g., a universal service fund and the possibility to waivers) are far too narrow and contingent to be significant . . . *United States* v. *AT&T Company,* F. Supp. , , 1983-1 CCH Trade Cas. Sec. 65, 333 (D.D.C. 1983).

There have been several studies projecting the telephone dropoff rate. The most recent one done by the Florida State Public Utility Commission is representative of the estimated impact of the FCC's access charge decision beginning on January 1, 1984 with the $2 per month increase for residential customers (Table 1) and at the end of the transition when that access charge would be $7 in Florida (Table 2).

TABLE 1.—ESTIMATED EFFECTS OF A $2 (17 PERCENT) INCREASE IN LOCAL EXCHANGE TELEPHONE RATES ON SPECIFIED DEMOGRAPHIC GROUPS IN FLORIDA

Demographic group	Elasticity	Subscribership before price increase	Estimated subscribership after price increase	Reduction in number of subscribers	Percent reduction
All households	—.07	3,382,640	3,342,387	40,253	1.2
Age of household head:					
62 and older [1]	[1] —.042	1,181,500	1,173,064	8,436	.7
65 and older [1]	[1] —.041	994,820	987,886	6,934	.7
Household income:					
$10,000 or less	—.13	1,020,320	997,771	22,549	2.2
$10,001 to $15,000 [2]	[2] —.10	595,340	585,219	10,121	1.7
$15,001 to $30,000 [2]	[2] —.03	1,184,180	1,178,141	6,039	.5
$30,000 and greater	—.01	582,800	581,809	991	.2
Race:					
Black	—.13	367,355	359,236	8,119	2.2
All other [3]	[3] —.06	3,015,285	2,984,529	30,756	1.0

[1] The elasticities for the age groups were derived by assuming that the relationship between each group's nonsubscription (i.e., no telephone service) rate and its price elasticity for basic service was proportional to the relationship between the nonsubscription rate and elasticity for the population at large.

[2] The elasticities for the $10,001 to $15,000 and $15,001 to $30,000 income groups were interpolated between the "very poor" households' elasticity and the $30,000 and greater group's elasticity in order to obtain reasonable estimates of the total subscriber reductions.

[3] The elasticity for the all other races group was estimated to yield a reasonable total reduction in the number of subscribers, taking the elasticities for black households and for all households as given from app. G.

Note: The elasticities used in this table were calculated by National Economic Research Associates for a $2 (15 percent) increase in the national average local telephone service rate. Since $2 represents approximately a 17-percent increase in Florida's average local telephone service rate, the estimates in the table are for a 17-percent price increase.

TABLE 2.—ESTIMATED EFFECTS OF A $7 (58 PERCENT) INCREASE IN LOCAL EXCHANGE TELEPHONE RATES ON SPECIFIED DEMOGRAPHIC GROUPS IN FLORIDA

Demographic group	Elasticity	Subscribership before price increase	Estimated subscribership after price increase	Reduction in number of subscribers	Percent reduction
All households	—.08	3,382,640	3,225,686	156,954	4.6
Age of household head:					
62 and older [1]	[1] —.048	1,181,500	1,148,607	32,893	2.8
65 and older [1]	[1] —.047	994,820	967,701	27,119	2.7
Household income:					
$10,000 or less	—.17	1,020,320	919,716	100,604	9.9
$10,001 to $15,000 [2]	[2] —.10	595,340	560,810	34,530	5.8
$15,001 to $30,000 [2]	[2] —.04	1,184,180	1,156,707	27,473	2.3
$30,000 and greater	—.01	582,800	579,420	3,380	0.6
Race:					
Black	—.11	367,355	343,918	23,437	6.4
All other [3]	[3] —.076	3,015,285	2,882,371	132,914	4.4

[1] The elasticities for the age groups were derived by assuming that the relationship between each group's nonsubscription (i.e., no telephone service) rate and its price elasticity for basic service was proportional to the relationship between the nonsubscription rate and elasticity for the population at large.

[2] The elasticities for the $10,001 to $15,000 and $15,001 to $30,000 income groups were interpolated between the "very poor" households' elasticity and the $30,000 and greater group's elasticity in order to obtain reasonable estimates of the total subscriber reductions.

[3] The elasticity for the all other races group was estimated to yield a reasonable total reduction in the number of subscribers, taking the elasticities for black households and for all households as given from app. G.

Note: The elasticities used in this table were calculated by National Economic Research Associates for a $7 (53 percent) increase in the national average local telephone service rate. Since $7 represents approximately a 58-percent increase in Florida's average local telephone service rate, the estimates in the table are for a 58-percent price increase.

This study did not take into account local rate increases that would occur for other reasons. Although the Committee recognizes that these studies are projections which do not represent hard data, the Committee finds it necessary to act to reduce the potential for telephone customer dropoff.

The purpose of S. 1660 is to suspend the major shift in policy contemplated in the FCC's access charge decision. Long distance will continue to subsidize some portions of local rates in order to ensure that the country's exceptional and affordable telephone network remains available. Although enactment of this bill will not prevent all increases in local telephone rates, its passage will indicate that Congress does not intend to allow a departure from previous policy without a more thorough analysis of the impact on our Nation.

BYPASS

The issue of bypass has been of considerable concern to the Committee during its deliberations of this bill. With the lowering of entry barriers and the advent of new technologies, customers can now have their own communication systems, separate and apart from the basic telephone network. There is a concern that if that becomes commonplace, the basic network will lose traffic and those customers remaining will have to pay higher rates and may not benefit from new communications services. In other words, universal telephone service might be endangered. The issues before the Committee were (1) how great a problem bypass is, and (2) whether it justifies shifting costs from business customers using long-distance service to residential and small business customers or whether it justifies charging certain bypassers the amounts necessary to help maintain the universal telephone network.

Bypass describes a system which provides communications services without using the facilities of the local telephone exchange. Bypass facilities may use a variety of technologies, including microwave, cable, satellites, and radio. Often, the system utilizes a combination of these technologies.

Users decide to construct a bypass system for a variety of reasons. Often that decision is based on relative costs. Some users may need a unique service with a level of quality, capability, and availability that cannot or is not being offered by the basic telephone network. A recent study prepared by Touche Ross and Company confirmed that lower costs and better services were two main reasons for bypass. As a practical matter, the decision to construct or lease a bypass system is one that depends on the particular need and circumstances of each user.

While bypass of the local telephone exchange exists, it is far from clear how large and immediate a problem it is. A recent article in the Bell Laboratories Record ("Bypassing the Local Exchange," May, 1982) viewed ". . . the so-called 'bypass technology' more as a concern than a threat." The article based this conclusion on the fact that "while the local network is not inviolate . . . it retains a remarkable edge. And it's hard to beat the price." Because of its ubiquity, the local loop has a tremendous advantage over any bypass system. Further, the President of Bell Laboratories stated in the Bell Laboratories Record, April, 1982 that the local telephone companies ". . . will continue to have the technology necessary to keep them competitive, and able to meet a variety of new service demands . . ." It is well known that local plants are being upgraded to full digital capability and that local data transport technology should soon be available.

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Another reason why bypass may not be an immediate significant threat today is that these new technologies have not been in operation for a sufficient period of time, and, therefore, their true capability is unknown. The FCC's survey on bypass technology (see the February 28, 1983 Order) indicated that a number of corporate communications managers were skeptical about the reliability and durability of these technologies. Others were concerned about the security of messages over these systems.

Despite the uncertainties, the Committee remains concerned about the potential impact of bypass on universal telephone service. The Committee, like the FCC, has not been able to compile complete information on when and why users bypass. Therefore, although the Committee believes it should address the problem of the cost differential between traditional telephone providers and bypassers, the Committee appreciates that any response must reflect this uncertainty.

The Committee's approach to the bypass issue is consistent with the overall context of this bill. At the heart of this bill is the firm judgment that much significant information is lacking and that precipitous action is unwise. The Committee chose to place 2-year moratorium on residential and single line business end user access charges. The balance of the Commission's decisions in C.C. 78–72, Phase I, including the end user access charge on big business and the flat charge on private line remains in effect. Thus, the amount long distance users must pay is reduced by about $2,500 million annually (versus about $4,300 million under the FCC's decision). Although less than the FCC's amount, the Commission believes that this approach will provide sufficient incentives to discourage bypass.

The Committee also believes that this legislation will not encourage bypass because bypass systems are major investments that are based on long term considerations. These systems are usually very expensive, often costing millions of dollars and constructed to last for many years. It is doubtful that potential bypassers will decide to construct an expensive system before the FCC submits the report required by this bill, which may recommend an entirely different approach that would affect cost/benefit calculations.

Finally, the FCC's access charge transition takes 6 years and the Commission did not impose a charge on bypassers that do not connect with the local exchange, despite a significant cost differential for long distance carriers that exists in the first few years of the Commission plan. The Committee, therefore, believes that the impact of this bill will not be significantly different in this respect from the Commission's decision and that it will not change the bypass situation appreciably.

The Committee's decision on how to deal with bypassers represents a balancing of our goals to encourage the development of new technologies while at the same time preserving universal telephone service. In particular, it reflects a concern as to whether a charge on bypassers to create a neutral marketplace can work. Over the past decade, the American communications industry has boomed. This dramatic growth provides jobs at home and trade overseas. The Committee is aware that it must be careful not to subject the industry to onerous measures that will hinder the future of our

communications industry. The Committee anticipates that with the further study as required in the bill, the FCC will be in a much better position to recommend how to deal with the bypass problem in the future.

In the meantime, the Committee has decided that all those who compete with universal telephone service should help maintain the network. That is why bypassers who offer, own, operate, or control services that are a close substitute for basic exchange telephone service will be assessed charges which will not be so great as to hinder technological development. The charge should be calculated on the basis of lines and switches (excluding CPE and inside wiring) comparable to the basic telephone network. For example, the Committee does not intend to apply it to shared PBX's which serve an entire building, industrial complex, or group of contiguous buildings.

The issue of when a bypasser has services or facilities that are close substitutes for basic telephone service has caused much discussion. In the bill, the Committee explicitly states that record communications services, as defined in section 222, are not such close substitutes. In addition, certain systems are not seen as close substitutes because of unique service and reliability requirements. Systems in this class include broadcaster's program transmissions, systems used primarily for public safety purposes, radio common carriers which offer exchange services, and private land mobile services, such as tax cab dispatch services. Further, the Committee does not intend to impose access charge required by section 3, or charges or surcharges required in section 4 on those carriers that offer mobile services that connect to the local exchange.

An argument has been advanced by the telephone industry that the bypass provisions of this bill cannot be implemented because it is impossible to identify those who own or use such systems. The Committee does not accept that contention. Bypassers generally would have to make use of wireline or microwave radio facilities to establish bypass systems, and their use of these facilities offers a workable means of identification because governmental approval is necessary to put these facilities in place. Wireline facilities generally would require right-of-way approval from state or local authorities, and microwave radio facilities require licenses from the Commission under title III of the act, and, if they are common carrier facilities, in many cases approval from the Commission under title II of the act as well. The Commission has ample authority under these provisions to require prospective and existing licensees to identify the uses of these communications facilities.

It is the view of the Committee that the Commission through cooperation with local and state authorities, will be able to develop a sufficient mechanism for identification of such facilities. The Committee concludes that it is more practical to leave the Commission with flexibility to develop specific identification procedures, rather than to freeze a particular approach for doing so in the statute.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget

Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 6, 1983.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 1660, the Universal Telephone Service Preservation Act of 1983, as ordered reported by the Senate Committee on Commerce, Science and Transportation, September 30, 1983. This letter supersedes our previous analysis of S. 1660, dated October 5, 1983, to reflect technical changes made in the bill and to clarify the purpose of certain provisions in the bill.

S. 1660 would require the Federal Communications Commission (FCC) to establish a Universal Telephone Service Joint Board, composed of federal and state commissioners. The board would have the responsibility to establish a Universal Service Fund beginning in January, 1986, which would establish and collect charges and surcharges from certain long distance carriers and by-passers. These funds would be distributed to local exchange carriers according to formulas specified in the bill in order to reimburse carriers for their costs that exceed the national average by ten percent and to provide for partial reimbursement of costs of lifeline basic exchange telephone service. The bill would effectively postpone implementation of the access charges on small business and residential customers proposed by the FCC.

It is expected that the collection and distribution of the charge and surcharge funds would be administered by the industry, with no direct federal involvement in the collection process. Based on information from the FCC, it is estimated that approximately $1 million in fiscal year 1984, $2 million in fiscal year 1985, and $1 million in fiscal year 1986 would be required by the FCC in order to implement S. 1660. The estimated cost would support additional professional and clerical staff, office equipment and supplies, computer processing, travel and consultants necessary to establish the rules, procedures and the mechanism necessary to distribute revenues and reimbursements of universal service costs to exchange carriers. Staff would also be used to address the issue of by-pass, and to prepare a report to the Congress by March 1, 1985.

If enacted, S. 1660 would result in an increase in the cost of telecommunications services to the federal government. Because the bill would require long-distance carriers to pay surcharges, the expected reduction in long-distance rates would be slowed. Thus, the government, as well as other users, would pay more for long-distance services. While the effect on the various carriers used by the government is very uncertain, it is estimated that these charges could cost the federal government an additional $6 million annually. This estimate assumes continuation of current patterns of usage by the government. In addition, because the government operates

telecommunications systems that by-pass local exchange carriers, it would be directly liable for paying charges mandated by the bill. Most of these would be incurred by the Department of Defense, but the estimated amount cannot be determined until the joint board guidelines are issued.

In addition to the federal budget impact, it is expected that some costs would be incurred by a number of states in order to implement the provisions of S. 1660. State commissions would be required to certify the universal service costs of exchange carriers to the joint board. State commissions would also be required to make lifeline telephone service available to customers to ensure that access to telephone service remains available to the same percentage of households served by the exchange carrier on January 1, 1983. The state commissions would be required to establish rules and accounting procedures consistent with those established by the joint board, and to ensure that reimbursements for lifeline costs from the fund are used as specified in this bill.

Because the rules, procedures and mechanisms for implementing the legislation have yet to be determined, it is difficult to estimate with any precision the potential budget impact to the various state if S. 1660 is enacted. Based on information from several states, it appears that the cost to any state would depend upon the number of basic exchange telephone service customers as well as the number of telephone service companies within the state, and whether or not some type of limited, low-cost service is provided in the state. If an ongoing certification and appeals process is established to determine and ensure that eligible recipients receive lifeline services, it is possible that additional permanent staff would be necessary in many states. Until the joint board provides its guidelines, however, it is not possible to estimate the potential impact on state budgets.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation:

While S. 1660, as reported, requires the FCC to focus on the need to ensure the maintenance of universal telephone service, the overall regulatory impact will be negligible.

In particular, this bill replaces existing settlement procedures for the distribution of revenues within the telephone industry with an access charge mechanism administered by the industry that recognizes the changing marketplace for telecommunications goods and services. The FCC and the telephone industry will be required to make transitional changes in the Commission's access charge decision and beyond that, the mechanism is not expected to require additional FCC regulation or industry compliance.

The provisions relating to identification of bypassers will utilize existing Commission procedures. Enforcement procedures will have

to be developed, but they will be similar to those required by the FCC's decision to charge private line services.

The Committee emphasizes that it will not be necessary for the Commission to embark on a new regulatory program. This bill is meant to deal with transition problems, and any action will be taken by the FCC with that objective in mind.

The Committee intends that no new budget authority be enacted due to the provisions of this bill. Any costs incurred in implementing the bill will be absorbed by existing FCC appropriations.

SECTION-BY-SECTION ANALYSIS

SECTION 2—POLICY

This section states the goals of the Universal Telephone Service Preservation Act of 1983. It is the intent of the Committee that the standards, procedures and mechanisms established by this legislation should ensure that the present high level of access to the basic exchange telephone services in this Nation would not be materially changed by the replacement of the existing telephone industry revenue settlement procedures by access charges and tariffs.

SECTION 3—EXCHANGE ACCESS

This section establishes the principles upon which the Commission should base a system of exchange access charges and tariffs as a replacement for historical procedures used in the telephone industry for revenue pooling and disbursement (the so-called "Division of Revenues" and "Settlement" procedures used in the traditional telephone industry), and for replacement of alternative tariff procedures employed for similar forms of exchange access by users of interexchange services (that is, private line) and competitive specialized common carriers (that is, interconnection to support MTS and WATS-like services).

By stating the statutory standards for a system of exchange access charges and tariffs, the Committee intends that any such system result in compensation for the cost of use by interstate and foreign communications of local exchange facilities and services, through direct and indirect interconnection. Such system shall achieve equitable treatment among all users of exchange access, establish incentives for efficient investment decisions and technological development; and achieve flexibility in accommodating changes in market conditions and technology.

SECTION 4—UNIVERSAL SERVICE; DEFINITIONS

This section establishes a Universal Service Fund to help preserve universal service for customers in high cost, primarily rural areas, and telephone customers of low income. Section 4 also bars, until January 1, 1986, the imposition of flat, per line end user access charges for interstate access on residential and single line business telephone subscribers.

Universal service fund

Pursuant to section 201(c) of the 1934 Act, as amended by section 4 of the bill, the Universal Service Joint board must establish a

Universal Service Fund. This Fund is intended to replace the fund recommended in C.C. Docket 80-286. Under present procedures for apportioning costs and revenues between interstate and intrastate services, the costs of nontraffic sensitive telephone facilities in many high cost rural areas are being subsidized by revenues from interstate services. This policy has made it possible to help maintain reasonable rates for these areas. It is the Committee's intention to establish a Universal Service Fund through the pooling on a nationwide basis of a portion of exchange access revenues. The Universal Service Fund amounts will be disbursed to certain high-cost eligible telephone companies under procedures to be adopted by the Joint Board. The Universal Service Fund would also be used to subsidize some of the costs of providing special, discounted "lifeline" service to the poor.

The Universal Service Joint Board is delegated the authority to designate the total costs of the rural and lifeline subsidies; to establish a schedule of charges appropriate to raise the necessary funds; and to provide for their collection. Surcharges or charges shall be imposed upon interexchange carriers or other persons that connect, directly or indirectly, with the exchange carriers, or other persons that offer, own, operate or control transmission facilities or service used as a substitute for the exchange carrier's voice-grade or equivalent transmission facility or services. Record services, as defined in section 222 of the 1934 Act, as amended, are specifically exempt from the charge or surcharges.

In devising the schedule of charges and surcharges, the Universal Service Joint Board is required to take into account the need to maintain universal service, to ensure fairness to interexchange carriers and other persons subject to charges under this section, and to promote competition and the development of technologies. It is intended that the Board devise and impose a schedule of charges to the extent feasible that does not give some competitors an unfair advantage in the marketplace. It is also intended that the Board devise and impose charges in a way that neither stifles the development of new technologies nor hinders competition.

Universal service costs of high cost exchange carriers

Pursuant to section 201(d) of the 1934 Act, as amended by section 4 of the bill, the Universal Service Joint Board shall promulgate rules governing the distribution of revenues from the Fund to eligible exchange carriers. Amended section 201(d) describes the exchange carriers that are eligible for payments from the Fund to defray a portion of above average costs. In order to be eligible, an exchange carrier must (1) hold a current telephone loan under the Rural Electrification Act of 1936; (2) be subject to limited Commission jurisdiction under section 2(b)(2) of the 1934 Act; and (3) either serve 50,000 or fewer access lines within a State or have gross annual revenues, including the telephone revenues of the carrier's affiliates, that do not exceed $100 million. These criteria are intended to target assistance to small rural companies that need it the most. Bell operating companies and affiliates of the larger independent telephone companies would be excluded.

Pursuant to section 201(e) of the 1934 Act, as amended by section 4 of the bill, the eligible exchange carriers shall receive an amount

from the Fund equal to 90 percent of their reasonably incurred, nontraffic sensitive costs that exceed 110 percent but do not exceed 250 percent of the national average for comparable costs. In addition, eligible exchange carriers shall receive 100 percent of these costs that exceed 250 percent of the national average for comparable costs.

Reasonably incurred costs are defined as costs that must be directly related to efficient and economic provision of basic exchange service as determined by State commissions pursuant to criteria established by the Board. The State commission must certify the exchange carriers' costs to the Universal Service Joint Board after conducting necessary and appropriate proceedings. The Board shall ensure that reimbursements under section 201(e) are used to reduce rates for basic exchange telephone service on a nondiscriminatory basis. The States have the important role of ensuring that these reimbursements are properly applied and that costs are properly allocated to basic exchange service. The Committee does not want these subsidies to flow to other services. The Board is granted appropriate rulemaking authority to implement this mandate.

Universal lifeline telephone service

Section 201(g) of the 1934 Act, as amended by section 4 of the bill, describes the manner, and the degree to which, amounts from the Universal Service Fund shall be used to defray some of the costs associated with the provision of lifeline telephone service.

Pursuant to amended Section 201(g), the Board is granted appropriate rulemaking authority governing the reimbursement of certain lifeline costs. The provision also mandates that the total amount from the Fund used to support lifeline service shall be equal to the lesser of the two amounts: the total amount from the Fund used to defray high costs of rural exchange carriers or the amount equal to half of all lifeline costs projected by the board.

Pursuant to amended section 201(g), an exchange carrier shall be eligible for reimbursements from the Fund for some of its lifeline costs, if it offers lifeline service pursuant to an order of a State commission, in accordance with rules that the Board shall promulgate. The State commission must verify, to the extent feasible, that the lifeline service is made available only to those groups of persons and at such discounted rates as is necessary and sufficient to avoid a drop in the percentage of households served by the exchange carrier as of January 1, 1983.

The State commissions must verify the cost to the carrier of providing the lifeline service and shall compute the total subsidy involved. The Board shall distribute the amounts in the Fund committed for the support of lifeline telephone so that all eligible carriers receive an amount covering the same percentage of their lifeline costs. No more than 50 percent of an exchange carrier's lifeline costs may be defrayed by the Fund. However, depending upon the amounts in the Fund committed for the support of lifeline telephone service, the portion of lifeline costs defrayed by the Fund may be less than 50 percent. It is intended that those lifeline costs not covered by the Fund shall be defrayed by funds from other sources within a given state.

The requirement to draw on sources within a State is designed in part to encourage State commissions to fashion lifeline telephone service options that efficiently target assistance solely to those persons who need it and who would otherwise drop telephone service. State commissions are required to establish appropriate accounting procedures, in accordance with rules of the Board, to ensure that reimbursements for lifeline costs are used in accordance with the law.

Definitions

Section 201(h) of the 1934 Act, as amended by section 4 of the bill, defines certain terms used in amended Section 201. "Basic exchange service" is narrowly defined as residential voice-grade exchange communications provided for the public, over the public switched telephone network for use by natural persons by voice. It does not include, for example, private line or long distance services.

"Exchange carrier" is defined as a carrier offering basic exchange telephone service and any other service within one or more service areas recognized by any State regulatory commission.

"Fund" is defined as the Universal Service Fund established pursuant to amended section 201(c).

"Lifeline costs" are defined as the difference between the cost of, and the rate charged for, lifeline telephone service.

"Lifeline telephone service" is defined as residential telephone service offered at a discounted rate, as ordered by a State commission, which allows natural persons to have access to telephone service and make calls within the telephone exchange at rates that do not unreasonably discourage use of that service. Pursuant to the definition, lifeline telephone service must be made available only to such groups of subscribers that would otherwise be unlikely to afford such access.

Moratorium of flat end user charges

Section 201(i) of the 1934 Act, as amended by section 4 of the bill, temporarily bars the imposition of flat end user access charges for interstate access service on residential and single line business customers. The bar extends untill January 1, 1986. The moratorium addresses that aspect of the decisions of the Federal Communications Commission in C.C. Docket No. 78-72, Phase I, in which the Commission ordered the imposition of certain flat end user access charges for interstate access on residential and business telephone subscribers. Under the Commission's order, commencing in 1984, residential subscribers could be required to pay $2 per line per month, and business subscribers could be required to pay $6 per line per month, for interstate access. Over a 6-year transition period, the end user access charges for residential and business subscribers would gradually rise according to a schedule devised by the Commission, until a substantial portion of the cost of interstate access is included in local telephone rates.

It is intended that no flat charges be imposed, until January 1, 1986, on residential customers and single-line business users. This provision is intended to help shield such customers from these increased local costs during the uncertain period after the completion of the divestiture of AT&T and when other factors are causing

local costs to rise. The moratorium is intended to give Congress time to assess the impact of changes during this period. The Committee believes that by January 1, 1986, Congress will be able to better determine the impact of the changing environment on local rates. Until that time, residential and small business telephone customers should be protected, as much as possible, from federally imposed rate increases.

Single-line business users are intended to include small businesses, which would be those most likely to depend on only a single line. It is the intent of the Committee that where a single premises is used both for business and residential purposes, this suspension shall be cumulative (that is, single business line and one or more residential lines to the same premises shall qualify for the suspension established in this section). Conversely, where multiple business lines and one or more residential lines are installed at the same premises, none of the business lines shall be subject to the suspension established in this section.

While the costs of interstate access may not, during the moratorium, be recovered from residential and single-line business customers through flat, per line charges, the bill is not intended to preclude other alternative methods for recovering interstate access costs.

The Committee does not disagree with the result of the Commission's access charge plan which would reduce and redirect the cross/regional subsidies that operate under the current system. Now a portion of local nontraffic sensitive costs are allocated to the interstate jurisdiction, and are borne by a national pool. Long distance carriers, and consequently, users in various states contribute to this pool. In some cases, the users contribute more than is returned to their state for support of local nontraffic sensitive costs. In other cases, long distance users in a state contribute less. In the latter instance, local nontraffic sensitive costs are subsidized by long distance customers in other areas of the country. These cross-regional subsidies would be reduced by the access charges, retained by the Committee because local business customers would become responsible for some local nontraffic sensitive costs.

SECTION 5—UNIVERSAL TELEPHONE SERVICE JOINT BOARD

This section establishes a Joint Board composed of five commissioners of the Commission and four State regulatory commissioners. The chairman of the Commission, or a Commissioner designated by the Commission shall serve as chairman of the Joint Board. Any decision adopted by the Joint Board would be adopted by the Commission as a final decision. It is the intent of the Committee that the Board act cooperatively and expeditiously to carry out the universal service goals entrusted to it, and that the members of the Board recognize that they would be making national decisions, not regional decisions on these matters.

This section also establishes a special administrative forfeiture penalty to be paid by any carrier or person that deprives an exchange carrier of revenue by failing to pay the charge or surcharge required by this act. The penalty would not be more than $100,000.

While such forfeitures are to be levied and collected in accordance with the procedures of section 503 and 504 of the Communications Act of 1934, as amended, forfeitures under this section shall differ from general forfeitures under the act in two significant ways. First, a dollar limit of $100,000 is established in this section, rather than the lower dollar limits established generally in the act. And second, forfeitures collected under this section are to be payable to the Universal Service Fund, rather than to the Treasury of the United States, to provide additional support to universal service goals. The Committee notes that the Commission has sufficient authority under the Communications Act of 1934, as amended, to adopt rules for the collection, and disbursement to the Fund, of any forfeitures which may be collected under this section.

SECTION 6—TRANSITIONAL PROVISIONS

Section 6 is intended to clarify that the Commission shall have discretion to take such action as may be necessary to expedite the establishment of interim access charges and tariffs during a transition period prior to the establishment of a permanent system of access charges and tariffs under the bill, and before universal service charge and "lifeline" service procedures are established by the Joint Board. Subsection (a) provides that the Commission shall have discretion to establish standards, guidelines, charges, practices and classifications governing interim access charges, and to require exchange carriers to submit interim tariffs consistent with the interim actions taken by the Commission.

Subsection (c) manifests the Committee's intention that interim action by the Commission under subsection (a) be expeditious, and completed contemporaneously with divestiture by AT&T of the Bell operating companies. It is provided that the record already established in relevant Commission proceedings shall be sufficient basis for interim action under subsection (a), except that such record cannot be used as a basis for establishing interim residential or single-line business end user access charges which have been suspended by this bill. It is recognized that the access charge arrangements contemplated by this section will represent a temporary accommodation. However, the Committee feels that the Commission has developed sufficient expertise to strike a fair balance until more permanent arrangements can be put in place. Permanent access charges established by the Commission under the bill will be subject to judicial review under the Administrative Procedures Act and title IV of the Communications Act of 1934, and interim action by the Commission under subsection (a) will be subject to judicial review only to determine whether the Commission has acted consistently with this section.

The Committee recognizes that a potential conflict could arise from the fact that, although the Modified Final Judgment entered in *U.S.* v. *AT&T* requires that a system of access charges and tariffs be in place in connection with the divestiture of the Bell operating companies, the bill prevents the Commission's present access charge orders in CC Docket No. 78–72, Phase I, from becoming effective in their present form because the bill suspends the residential and single-line business end user charges. To avoid this poten-

tial conflict, the Commission must be able to act expeditiously in establishing interim access charges and tariffs during the period when the Joint Board and the Commission will be adopting final procedures to carry out the objectives of the bill. Section 6 meets this objective by clarifying that the Commission has sufficient discretion to establish interim access charges and tariffs, and that it need not repeat the almost 5 years of proceedings in CC Docket No. 78-72, Phase I, and in related proceedings. The record in these proceedings, suitably modified to accommodate the end user charge suspension established in this bill, will provide a sufficient basis to do so. The Commission can, for example, allow the exchange carriers to recoup the amounts lost from our moratorium on end user charges by increasing the charges levied upon interexchange carriers.

The Committee is aware that the enormity of the breakup of the Bell System brings with it the risk of an extended period of uncertainty in the telecommunications industry and in the financial community in which AT&T and the Bell operating companies are to be raising necessary capital to maintain high quality services. Such uncertainty could have untoward effects upon the productivity and efficiency of carriers and other communications service providers, and upon the myriad of business and social activities which depend upon the services provided by carriers and other communications service providers. The bill reduces this risk by confirming that the Commission has sufficient discretion to revise its existing access charge decision quickly, to avoid dislocations, and without engaging in extensive hearings or other procedures to do so. The Committee concludes specifically that extended administrative proceedings or judicial review beyond the bounds for review of interim regulatory action as occurred in *Trans Alaska Pipeline Rate cases,* 436 U.S. 631 (1981) and *ABC* v. *FCC,* 682 F.2d 25 (2d Cir. 1982), would be inconsistent with achievement of the purposes of the bill. The Committee believes that the public will adequately be protected through the use of full administrative procedures and judicial review in connection with the adoption of final access charges and tariffs under the bill.

SECTION 7—RATE INTEGRATION

The noncontiguous States (Alaska, Hawaii Puerto Rico, and the Virgin Islands—the so-called domestic offshore points) have traditionally paid higher rates for interstate long-distance telephone service. This adversely affected the residents of the noncontiguous States and those seeking to communicate with them. In 1972 the FCC determined as a matter of policy that the rates between the contiguous and noncontiguous States should be integrated into the uniform domestic interstate rate structure. The FCC has reaffirmed this policy on numerous occasions, most recently in May of 1983.

While full rate integration has not yet been achieved, there has been substantial progress in the implementation of this policy. In 1976 and 1977, two phased reductions of interstate message telecommunications service (MTS) were effected. In 1979, the carriers serving Puerto Rico and the Virgin Islands reached an agreement

whereby full MTS rate integration would be achieved by July 1, 1980. This agreement was subsequently ratified by the FCC and the MTS and WATS rates to and from Puerto Rico and the Virgin Islands have been fully integrated into the mainland pattern. In 1981, the FCC approved the separate agreements between AT&T and the carriers serving Alaska and Hawaii. Under these agreements, the implementation of full rate integration for MTS and WATS is deferred until January 1, 1985. The agreements call for the prescription of the separations manual used in the mainland States for Hawaii and Alaska. They also provide for a payment of a "transitional supplement" from AT&T to Alascom and the Hawaiian Telephone Co. until the implementation of full MTS and WATS rate integration to ameliorate the effects on local ratepayers during a transition period.

The policy of rate integration has been specifically endorsed by this Committee as long ago as 1975. The Committee believes that rate integration represents sound public policy that benefits the entire Nation, and must be maintained. The Committee notes it is consistent with the overall policy objective of this legislation—to maintain universal telephone service at reasonable rates throughout the Nation.

However, the Committee wishes to ensure that the ongoing restructing of the domestic telecommunications industry, including the development of access charges to replace the existing system of separations and settlements under which telephone carriers interconnect with each other, does not undermine this rate integration policy.

The Committee intends that the FCC develop access charges and otherwise revise the existing relationships between carriers in a manner that does not undermine the policy of rate integration for the noncontiguous States.

Rate integration has two elements: (1) Establishing a rate structure which does not discriminate against the noncontiguous states; and (2) developing and maintaining a mechanism which permits the carriers serving the noncontiguous States to be compensated at levels adequate to pay the entire cost of the required facilities.

The Committee notes with approval that a tariff to integrate rates to these points fully has been filed by AT&T, in advance of the deadline approved by the FCC, and the Committee finds that nothing contained in this bill shall impair the implementation of rate integration.

The Committee intends the FCC to prescribe or approve a system consistent with the bill and relevant Commission policies to provide for the continuation of interstate service at nationally integrated rates to and from the noncontiguous States. The proceeding must commence within 180 days and should examine such issues as: (1) the identification of rate levels constituting integrated rates to and from the noncontiguous States at the same level; (2) the level of settlements and payments needed to support an integrated rate structure; (3) the method of collecting and distributing any additional support payments needed; (4) the treatment of supporting payments on routes served by two or more competing toll carriers; and (5) the methodology used to separate costs of toll facilities commonly used to provide both interstate and intrastate service. Noth-

ing herein is intended to preclude full rate integration for the noncontiguous States prior to a final determination by the Commission.

It is the intent of the Committee that any change in the prescription of separations and settlements methodologies for the noncontiguous States necessary to implement rate integration not result in the shifting of a greater percentage of the costs of providing long distance facilities from the Federal to the State jurisdictions that is now the case. Nothing in this section is intended to prevent rate structures from reflecting calling distances.

In order to preclude the possibility that the residents of noncontiguous States will be adversely affected by the development of access charges, until the FCC completes this proceeding, the existing settlement arrangements between carriers serving the noncontiguous States must be maintained unless each carrier involved in a settlement agrees on another formula. If the carriers involved do not voluntarily reach agreement on such interim settlements, the FCC should ensure that settlements continue based on the methodology including transitional payments, as needed, of the interim settlement agreement, adjusted for variations in traffic volumes. Such arrangements, shall be adjusted to reflect end user access charges which are permitted to be established pursuant to this bill.

The Committee believes that the continuation of the existing cost-based revenue settlements arrangements between joint through carriers should not in any way influence (1) any claims another carrier may have against AT&T for discriminatory terms of connection, including disposition of such claims pending completion of the proceeding required by this section, or (2) the eventual decision of the FCC of how to maintain rate integration in the proceeding mandated by this section.

Nothing in this section is meant to impair the development of full and fair competition in telecommunication services for Alaska.

SECTION 8—REPORT BY THE FCC

This section requires the Commission, after consultation with the Joint Board, to submit a report to Congress by March 1, 1985. The Committee believes the March 1, 1985, deadline allows the Commission sufficient time to evaluate the impact of this act on a marketplace which will be significantly changed from the existing environment due to the divestiture of AT&T and other changes. The Committee expects that the Commission's report would detail any action the Commission would take regarding access charges once the congressional moratorium on residential and single-line access charges expires. The Committee expects to see the Commission's rationale for its proposal and how such proposal would impact both local rates and the continuation of universal service. Any proposal which the Commission expects to see become effective after January 1, 1985 must be explained fully in the report.

In addition, the Committee expects the report to contain any legislative proposals the Commission considers necessary to maintain the Committee's goal of preserving universal telephone service at affordable rates.

ROLLCALL VOTES IN COMMITTEE

In accordance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following record votes during its consideration of S. 1660:

On motion to adopt substitute for S. 1660 offered by Senator Lautenberg:

YEAS—9	NAYS—6
Mr. Gorton	Mr. Packwood
Mr. Hollings	Mrs. Kassebaum
Mr. Long	Mr. Pressler
Mr. Inouye [1]	Mr. Stevens
Mr. Ford	Mr. Kasten
Mr. Riegle [1]	Mr. Trible
Mr. Exon	
Mr. Heflin	
Mr. Lautenberg	

[1] By proxy.

On motion of Senator Stevens to postpone consideration of S. 1660 for one week or until another mark-up:

YEAS—10	NAYS—6
Mr. Packwood	Mr. Hollings
Mr. Danforth	Mr. Long
Mrs. Kassebaum	Mr. Inouye [1]
Mr. Pressler	Mr. Ford
Mr. Gorton	Mr. Riegle [1]
Mr. Stevens	Mr. Lautenberg
Mr. Kasten [1]	
Mr. Trible	
Mr. Exon	
Mr. Heflin	

[1] By proxy.

On motion of Senator Goldwater to refer S. 1660 to the Subcommittee on Communications:

YEAS—1	NAYS—5	PRESENT—2
Mr. Goldwater	Mr. Packwood	Mrs. Kassebaum
	Mr. Danforth [1]	Mr. Ford
	Mr. Gorton	Mr. Heflin
	Mr. Exon	
	Mr. Lautenberg	

[1] By proxy.

On motion to instruct the staff to prepare possible language for compromise substitute for S. 1660:

YEAS—10	NAYS—2
Mr. Packwood	Mr. Goldwater
Mr. Danforth [1]	Mr. Gorton

Mr. Pressler [1]
Mr. Stevens [1]
Mr. Kasten
Mr. Ford
Mr. Riegle [1]
Mr. Exon
Mr. Heflin
Mr. Lautenberg

[1] By proxy.

On motion ot report S. 1660, with an amendment in the nature of a substitute:

YEAS—15	NAYS—2
Mr. Packwood	Mr. Goldwater
Mr. Danforth [1]	Mr. Long
Mrs. Kassebaum	
Mr. Pressler	
Mr. Gorton	
Mr. Stevens [1]	
Mr. Kasten [1]	
Mr. Trible [1]	
Mr. Hollings [1]	
Mr. Inouye	
Mr. Ford	
Mr. Riegle	
Mr. Exon	
Mr. Heflin [1]	
Mr. Lautenberg	

[1] By proxy.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be obmitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

The Communications Act of 1934

Section 201 of That Act

SERVICE AND CHARGES

Sec. 201. (a)–(b) * * *

(c)(1) The Joint Board established pursuant to section 410(d) of this Act shall establish a Universal Service Fund to—

(A) ensure that any exchange company eligible pursuant to subsection (d)(1) shall qualify for reimbursements for universal service costs; and

(B) ensure that any exchange company eligible pursuant to subsection (g)(3) (A) through (C) shall qualify for reimbursements for lifeline costs.

(2) The Joint Board shall establish a schedule which shall—

(A) designate universal service costs to be allocated to the Federal jurisdiction;

(B) designate lifeline costs to be allocated to the Federal jurisdiction;

(C) provide for the collection of a universal service surcharge that is payable by any interexchange carrier or other person using the services of exchange companies through direct or indirect connection; and

(D) provide for the collection of a universal service charge that is payable by any interexchange carrier or other person, that offers, owns, operates or controls any transmission facilities or services used as a substitute for voice grade or equivalent transmission facilities or services offered by exchange carriers. Such charge or surcharge shall not apply with respect to record communications services, as defined in section 222 of this Act.

(3) In determining the level of charges applicable to interexchange carriers and persons under paragraph (2)(D), the schedule of charges shall reflect the need to—

(A) maintain universal telephone service;

(B) ensure fairness to interexchange carriers and persons in paragraph (2) (C) and (D); and

(C) promote competition and the development of technologies.

(d)(1) The Joint Board established pursuant to section 410(d) of this Act shall promulgate rules, procedures, and mechanisms in accordance with section 410(c) for the reimbursement of universal service costs to exchange carriers under subsection (c)(1). An exchange carrier shall be eligible for the reimbursement of universal service costs if such carrier—

(A) is a recipient of a telephone loan under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.);

(B) is subject to limited Commission jurisdiction under section 2(b)(2) of this Act; and

(C) serves 50,000 or fewer access lines within a State or has gross revenues, including the telephone revenues of affiliates of such carrier, that are not in excess of $100,000,000.

(e)(1) For purposes of subsection (c)(1), universal service costs shall consist of an exchange company's costs for basic exchange telephone service which exceed 110 percent of the average cost of providing comparable basic exchange telephone service throughout the United States.

(2) Each exchange company that qualifies for reimburements under subsection (d)(1) shall be entitled to receive 90 percent of its universal service costs.

(3) Any exchange company which qualifies for reimbursements under this subsection and whose universal service costs exceed 250 percent of the average cost of providing comparable basic exchange telephone service throughout the United States shall be entitled to receive 100 percent of its universal service costs over 250 percent of the national average.

(4) Costs for which exchange carriers seek reimbursement under this subsection shall be considered to be eligible costs if they are reasonably incurred and are directly related to the efficient and economic provision of basic exchange telephone service, as determined by State commissions in accordance with criteria established by the

Joint Board. Such reimbursement shall apply only to nontraffic sensitive costs, without regard to whether such costs have been allocated to the intrastate or interstate jurisdiction. State commissions shall certify costs of exchange carriers to the Joint Board after conducting such proceedings as may be necessary to determine whether such costs comply with the criteria established by the Joint Board under this subsection. The burden of establishing that such costs comply with such criteria shall be upon the exchange carrier involved.

(f) The Joint Board, in establishing rules, procedures, and mechanisms under subsection (d)(1), shall ensure that reimbursements made to an exchange carrier shall be used by such carrier to reduce rates on a nondiscriminatory basis for basic exchange telephone service. The Joint Board shall have authority to establish rules under section 410(c) governing the distribution of such rate reductions among different categories of basic exchange telephone service customers.

(g)(1) The Joint Board established pursuant to section 410(d) of this Act shall promulgate rules, procedures, and mechanisms in accordance with section 410(c) for the reimbursement of lifeline costs to exchange carriers eligible under paragraph (3)(B).

(2) Such rules shall ensure that the total annual contributions to the Fund equal the amount of annual reimbursements to be paid under subsection (d)(1), or an amount equal to 50 percent of the total lifeline costs projected by the Joint Board for that year, whichever amount is less.

(3)(A) The percent of the lifeline costs defrayed by the Fund shall be the same for all eligible carriers, but in no event shall it exceed 50 percent of such carrier's lifeline costs.

(B) No exchange carrier shall be eligible for reimbursement for lifeline costs from the Fund unless such carrier offers lifeline telephone service pursuant to an order of a State commission issued in accordancw with rules promulgated by the Joint Board. Any such order shall verify, to the maximum extent feasible, that the lifeline telephone service to be offered by the exchange carrier shall in fact be offered only to such persons and at such rates as are necessary and sufficient to ensure that access to telephone service remains available to the same percentage of households served by the exchange carrier on January 1, 1983. Any such order shall also verify the cost of providing such lifeline telephone service by the exchange carrier and shsll compute the total lifeline reimbursements necessary for such service.

(C) Any such State commission shall establish rules and accounting procedures, in accordance with rules established by the Joint Board, to ensure that reimbursements for lifeline costs from the Fund are used in accordance with the provisions of this subsection.

(h) For purposes of this section, the term—

(1) "basic exchange telephone service" means residential voice-grade exchange communications provided to the general public over the public switched telephone network for use by natural persons to communicate with each other by voice;

(2) "exchange carrier" means a carrier that offers basic exchange telephone service areas recognized by any State regulatory commission;

(3) "Fund" means the Universal Service Fund established pursuant to subsection (c);

(4) "lifeline costs" means the amount by which the cost of providing lifeline telephone service exceeds the rate actually charged for such service; and

(5) "lifeline telephone service" means residential telephone service established by an order of a State commission in accordance with this section which allows natural persons to have access to telephone service, and which is made available by an exchange carrier solely to select groups of subscribers such as the elderly, the unemployed, and persons of low and moderate income who othewise would be unlikely to be able to afford such access; the term includes the ability to make calls within the telephone exchange at rates such that use of the access is not unreasonably discouraged.

(i) No flat charges for interstate access service may be recovered directly from residential and single line business end users by exchange carriers until January 1, 1986.

SECTION 221 OF THAT ACT

SPECIAL PROVISIONS RELATING TO TELEPHONE COMPANIES

SEC. 221. (a)–(d) * * *

(e) Any system of exchange access charges established by the Commission under sections 1, 4, 201, 202, and 205 shall—

(1) achieve equitable treatment among all inter-exchange carriers and other persons using the services of exchange companies through direct or indirect connection;

(2) ensure that payments and assignments of costs relating to exchange access are carried out in a manner which is open to public examination and which ensures accountability to the public;

(3) achieve flexibility in accommodating changes in market conditions and technology;

(4) establish incentives for efficient investment decisions and technological choices; and

(5) ensure that exchange carriers are compensated for their costs of providing exchange access.

SECTION 410 OF THAT ACT

USE OF JOINT BOARDS—COOPERATION WITH STATE COMMISSIONS

SEC. 410. (a) Except as provided in section 409 *and subsection (d) of this section,* the Commission may refer any matter arising in the administration of this Act to a joint board to be composed of a member, or of an equal number of members, as determined by the commission, from each of the States in which the wire or radio communicaiton affected by or involved in the proceeding takes place or is proposed. For purposes of acting upon such matter any such board shall have all the jurisdiction and powers conferred by law upon an examiner provided for in section 11 of the Administrative Procedure Act, designated by the Commission, and shall be subject to the same duties and obligations. The action of a joint

board shall have such force and effect and its proceedings shall be conducted in such manner as the Commission shall be regulations prescribe. The joint board member or members for each state shall be nominated by the State commission of the State or by the Governor if there is no State commission, and appointed by the Federal Communications Commission. The Commission shall have discretion to reject any nominee. Joint board members shall receive such allowances for expenses as the Commission shall provide.

(b) * * *

(c) The Commission shall refer any proceeding regarding the jurisdictional separation of common carrier property and expenses between interstate and intrastate operations, which it institutes pursuant to a notice of proposed rulemaking and, except as provided in section 409 of this Act *and subsection (d) of this section,* may refer any other matter, relating to common carrier communications of joint Federal-State concern, to a Federal-State Joint Board. The Joint Board shall possess the same jurisdiction, powers, duties, and obligations as a joint board established under subsection (a) of this section, and shall prepare a recommended decision for prompt review and action by the Commission. In addition, the State members of the Joint Board shall sit with the Commission en banc at any oral argument that may be scheduled in the proceeding. The Commission shall also afford the State members of the Joint Board an opportunity to participate in its deliberations, but not vote, when it has under consideration the recommended decision of the Joint Board or any further decisional action that may be required in the proceeding. The Joint Board shall be composed of three Commissioners of the Commission and of four State commissioners nominated by the national organization of the State commissions, as referred to in sections 202(b) and 205(f) of the Interstate Commerce Act, and approved by the Commission. The Chairman of the Commission, or another Commissioner designated by the Commission, shall serve as Chairman of the Joint Board.

(d) The Commission shall establish a Joint Board which shall be known as the "Universal Telephone Service Joint Board." Such Board shall be composed of five Commissioners of the Commission and of four commissioners nominated by the national organization of the State commissions (referred to in subsection (c)), and approved by the Commission. If there are vacancies on the Commission, the number of State and Federal Commissioners comprising the Board shall be reduced so that there is one less State commissioner than Federal Commissioners. The Chairman of the Commission, or another Commissioner designated by the Commission, shall serve as chairman of such Board. The Commission shall refer any matter relating to subsections (c) through (h) of section 201 of this act to the Board established by this subsection. Any decision of such Board arising out of or in connection with such matter so referred shall be adopted by the Commission as a final decision. For the purpose of acting on any such matter, such Board shall have all the jurisdiction and power of a board established pursuant to subsection (a) of this section.

(e) Whoever deprives any exchange company of any revenue to which it is otherwise entitled in connection with surcharges established by section 201(c)(2)(C) or charges established by section

201(c)(2)(D) shall be liable for a forfeiture penalty of not more than $100,000 to be collected in accordance with the provisions of sections 503 and 504 of this act. Any sums so collected shall be payable to the Universal Service Fund established under section 201(c) of this act rather than the Treasury of the United States.

MINORITY VIEWS OF MR. GOLDWATER

INTRODUCTION

As Chairman of the Subcommittee on Communications, I voted against S. 1660, as reported by this Committee. My principal concerns are that we do not have an adequate record or other facts on which to make an informed decision on the important issues involved and that the Committee bill may actually harm consumers and universal service far more than it helps.

The bill is anticompetitive, may block sizable reductions in interstate long distance rates, disrupt stock issuances of the seven new regional telephone holding companies at their moment of birth, risk the savings and pensions of 750,000 telephone company workers, thwart the use of new technology by interstate carriers and local telephone companies, and replace the universal service plan scheduled for approval by the Federal Communications Commission (FCC) that treats all rural customers evenly with a scaled down plan that leaves many rural residents in high cost communities without any relief at all.

BACKGROUND

The original S. 1660 was introduced by the Committee Chairman on July 20, 1983. Two days of hearings were held by the full Committee on July 28 and 29, 1983. Three markup sessions of the full Committee were held in late September. New versions of the bill were presented at each session. In all the legislation went through seven or eight different drafts. Members were not presented with the last draft until 5:30 p.m. of the evening before the final markup. To say the least, the final bill was drafted hurriedly without due consideration or knowledge of what it would really do, who would be affected, and how.

In short, the legislation has been born in a hasty rush to judgment without adequate facts or sound deliberation. I fear that the Committee's action may be doing telephone customers, carriers, and suppliers a great harm. It is reckless of Congress to act on a subject of such enormous consequences to the entire public and national economy without having substantial facts to work with.

The claimed reason for rushing to decision is that the FCC access charge decision will go into effect January 1, 1984. It is arbitrarily asserted that there is no way to reverse the access charges once they are in place. This is ridiculous. Of course Congress can legislate the removal of these fees after they take effect, if there is good reason to do so. Monumental changes have occured in the telecommunications field because of FCC decisions, court orders and new competition. For the Committee to act as if further change cannot

occur in the industry is repudiated by the entire course of the last decade.

The purpose of the FCC decision which would be blocked for at least 2 years by the Committee bill is to begin to move the telephone industry, which has employed extensive cross-subsidy flows in the monopoly days, toward a cost-based pricing system more appropriate for the deregulated, competitive future.

Telecommunications is a complex and fast changing field in which there are many competing interests. Some of the proponents of the bill apparently believe the bill is simple—just postponing a $2 residence charge for more study. Unfortunately, the bill goes far beyond that and leaves in place structures and subsidies in the industry that could be counterproductive. In contrast to the procedure followed on this bill, we conducted over 200 hours of hearings with over 100 witnesses before we considered and passed S. 66, the Cable Telecommunications and Deregulation Act of 1983, earlier in this session.

It is true that the Communications Subcommittee held hearings and acted on telephone legislation in the 96th and 97th Congresses. But since those actions in 1980 and 1981, we have witnessed great changes—the divestiture agreement which will break up the Bell System, the FCC's Second Computer Inquiry and other pro-competitive decisions, and, most recently, the access charge decision by the Commission. We do not have a record that adequately addresses all these recent changes, how they are interrelated, and what legislative action, if any, is needed. A great deal more study is required before we should try to change the rules in this industry any further. Let me first review the FCC's decision.

THE FCC ACCESS CHARGE DECISION

On February 28, 1983, the FCC released its Access Charge Order. On reconsideration, certain changes were made in a decision reached on July 27, 1983. The decision was designed to move the pricing structure of the telephone industry from the monopoly era, which was dominated by AT&T and its local operating companies, into the new era of competition.

The Commission's options were controlled somewhat by the divestiture agreement between AT&T and the Government. The FCC was limited because the upcoming divestiture severs the corporate ties between AT&T and the local operating companies, forcing a division of what were once jointly owned assets. It is important to recognize that the court supervised divestiture agreement required tariffs to be filed to replace the old system with cost-based access charges. The Committee bill would reverse the philosophy of this court-sanctioned agreement.

The FCC also had real and severe time constraints, since the divestiture will become effective on January 1, 1984. The FCC's plan had to be in place early enough for the industry to make appropriate preparations to reflect the independence of the Bell operating companies. I will discuss the transition procedures that the Committee would upset in more detail in a later section.

Underlying the FCC's plan is the simple fact that the cost of operating the local telephone exchange plant is significantly greater

than the charges for local services. Long distance rates have traditionally been above the real cost of operating the long distance, or interexchange, facilities to cover this differential. During the monopoly era, AT&T, with the direction or concurrence of State and Federal regulators, had priced its long distance rates significantly higher than cost in order to provide more and more funds to subsidize the cost of the local facilities. This arrangement kept local rates low and affordable to almost all Americans.

While this worked well in the old monopoly era, it could not be sustained in a competitive market. As the competitive movement expanded, large users of long distance turned to new suppliers of interstate service, or using microwave facilities and other state-of-the-art equipment, these companies were able to "bypass" the local or national telephone system and avoid the subsidy built into long distance service, a subsidy the Committee bill will retain intact for at least 2 more years. It is erroneously claimed by some that the only subsidy is in the high cost fund of the bill. This ignores the fact that the bill will freeze for 2 years a greater part of the present $10.7 billion subsidy than would the FCC.

The FCC wants to withdraw most of the long distance subsidy over a transition period and allow all interstate carriers to compete evenly without artifical burdens. The FCC foresaw, however, that once the subsidy is taken away, the divested local operating companies could not survive without a plan for covering the actual remaining expense of their local exchange plants. To this end, the Commission proposed a system designed to shift a greater portion of purely local loop costs to the local users of the services over an extended transitional period of 6 years. Access charges are to be assessed by the local companies to both residential and business users to cover the cost of the local plant used for interstate calling.

The monthly residential access charge is scheduled to start at $2 in 1984 and rise to $3 in 1985 and to $4 in 1986, although a FCC monitoring program may reduce these fees. The monthly business access charge will likely be $6 or less in this period. Long-distance rates are to be reduced proportionately as these access charges are put into effect.

No future increases have been announced. Before the end of this 3 year period, the Commission will conduct another notice and comment proceeding to evaluate nationwide and local effects of the transition before proceeding any further in the transition plan. Anyone who claims the access fee will be $10 or $12 by 1989 is ignoring the true facts. While the Commission provides a formula for calculating the access charges for transition years 1987-89, this is not final and only the subsequent proceeding and its record will establish the actual charges for that period, charges which may be cut, not increased, if the FCC finds that telephone customers are dropping off the network.

The Commission found that the transition to a fully competitive industry can be accomplished only if artificial subsidies and pricing policies are eliminated.

In adopting the order on reconsideration, the FCC said:

> The driving force behind our decision to move toward flat charges is our commitment to promoting efficient use

> of the nationwide telecommunications net work and our recognition that pricing reform is necessary to enable our society to maximize its efficient use of the telecommunications network and realize the benefits possible from increasing competition in the interexchange marketplace. Artificial pricing structures, while perhaps appropriate for use in achieving social objectives under the right conditions, cannot withstand the pressures of a competitive marketplace. We see the imposition of moderate flat charges on telephone subscribers as an effective, orderly and fair means of guiding telecommunications pricing in the direction which it inevitably must take: toward efficient, cost-based rates. The concept that users of the local telephone network should be responsible for the costs they actually cause is sound from a public policy perspective and rings of fundamental fairness. Reconsideration Order ¶ 7 (July 7, 1983).

In its ruling, the Commission was sensitive to the concerns expressed by many parties that the transition to cost-based pricing could result in low income subscribers being unable to afford telephone service. To prevent this from happening, the Commission held that State regulators could and are encouraged to grant waivers of any residential access charges for classes of individuals—such as the poor, elderly or unemployed—deemed at risk by such charges. The plan provides that customers of these "lifeline" services established by the State commissions would pay no access charges at all. Although some State constitutions may otherwise prevent the implementation of lifeline programs, the FCC decision may preempt the field and allow such programs to operate. These persons would also benefit from the long-distance reductions.

In a further effort to smooth the transition, the Commission created a Universal Service Fund. The costs of the local exchange plant vary widely throughout the country due to differences in terrain and population density. This fund would be maintained, through a system of surcharges on long-distance carriers, to ensure that local companies in areas of high costs could have local rates that do not substantially exceed rates charged by other companies. These "high cost" companies would be reimbursed for the part of their costs exceeding 115 percent of national average costs. The fund will contain from $900 million to $1 billion in 1986.

IMPACT OF THE COMMITTEE BILL

The Committee's hearing record on this bill is inadequate. Thus it became clear at the three markup sessions that no one knows with any certainty what the likely impact of the bill will be. Let me state a few simple facts that we do know.

The bill will override the FCC access charge decision for residential and small business telephone users in 1984 and 1985. The FCC decision as adopted means that in 1984 roughly $3,300 milion will be removed from long distance costs. Instead, it is to be recovered by access charged on residential and businesses long distance users for nontraffic sensitive costs of local telephone service. As discussued above, these are costs that are incurred to provide telephone

service to customers even if a customer made no long distance calls at all. In 1985, the FCC plan would remove about $4 billion from long distance costs.

In contrast, the Committee bill would eliminate up to $2,200 million of these savings to long-distance callers in 1984 and block up to $3 billion of these savings in 1985 and put the cost back on long-distance users—primarily those users who cannot bypass the network. I would point out that 55 percent of interstate long-distance revenue comes from residential customers.

In other words, the bill as presently drafted takes out of one pocket what it puts in the other. Residential customers and small business are denied up to $5 billion of savings in their interstate telephone service over the next 2 years so that they will not have to pay a small access charge which would yield roughly the same amount of revenue for the local telephone company. The simple fact is that, one way or the other, residential and small business customers will wind up paying the bill under the Committee legislation.

SUMMARY OF HARMFUL RESULTS OF COMMITTEE BILL

I would summarize my concerns and the potential effects of the Committee bill as follows:

(1) S. 1660 will mean that a 10 to 15 percent reduction in long distance rates will not go into effect. This decrease was filed on October 3, 1983 and would be the largest decrease in rates in the history of the telephone industry. These tariffs would have to be withdrawn and new ones filed. It is difficult to expect that long distance carriers can reduce rates if Congress is adding to their costs and AT&T has said it would have to file increased rates if this bill passes.

(2) S. 1660 will mean that the financial status of the seven regional Bell telephone holding companies will be changed and made uncertain right at the moment of their birth, when they are first trying to sell stock on the New York Stock Exchange. This is because they will have to withdraw or change access charge tariffs filed on September 30, 1983 and prepare an entire new set of rate applications, something that may be physically impossible before the stock is traded.

(3) S. 1660 will mean that the pensions and savings of nearly 750,000 Bell company employees could be put at risk due to the financial uncertainty created for the industry by the bill.

(4) S. 1660 will give a new group of State and Federal regulators, the Joint Board, broad powers to impose a bypass penalty on carriers or customers who do not connect to the telephone network. No one knows if this will be effective or counterproductive in discouraging bypass. It could, however, discourage development of new technology. Further, the penalty for nonpayment of access charges is not clear. Is the bypass charge of $100,000 a one-time penalty or annual one, and will a separate penalty be charged for each telephone territory bypassed or only for the entire Nation as a unit? In any event it is unclear how a company can collect charges from a carrier or other customer who is not doing business with it.

(5) S. 1660 will not set a specific monetary limit on the magnitude of the high cost service and lifeline funds. It will use definitions so broad that even undefined "moderate" income persons can qualify for privileged rates that discriminate against all other telephone users. A wage earner with $25,000 annual income might qualify for a subsidy under this provision if family expenses, such as mortgage costs, auto loans and college tuitions were high enough to argue they cannot afford higher telephone bills.

(6) S. 1660 will decrease the support provided to rural and high-cost areas by the FCC plan in 1986 and substitute for it a subsidy fund that is less than half as large as the FCC fund.

(7) S. 1660 will discriminate among customers in high-cost rural communities depending on whether their local telephone company has 50,000 residential lines or more.

(8) S. 1660 will retain nearly 90 percent of the system of multibillion dollar money flows from interstate carriers among the States for the 2 year moratorium period, which the FCC has planned to begin phasing out on January 1, 1984.

(9) S. 1660 will have a broad negative impact on successfully implementing the divestiture agreement. While it may not stop or reverse divestiture, it could cause tremendous operating difficulties.

(10) S. 1660 will not hold down the greatest pressures for local rate increases which are caused by a variety of factors unrelated to the FCC access charge decision. With this action the Committee bill could deceive the public by allowing them to think the bill will hold down local rate increases. It will not do that.

(11) S. 1660 will create a situation similar to the unconstitutional legislative veto by requiring the FCC to delay its plan and then report back before taking any action.

(12) S. 1660 will not permit implementation of a residential access charge for 2 years yet it requires the FCC to study the impact of such a charge, a study which is on top of a study the FCC already has underway and will report on by December 1, 1983. What else can the FCC possibly study for the next 18 months?

These are only some of the very real concerns and potential effects of the bill adopted by the Committee. The Committee has not developed an adequate record on these issues and no one can truly know all the possible effects on the industry. Let me discuss some of these concerns in more depth.

LOCAL TELEPHONE COMPANY'S FINANCIAL VIABILITY COULD BE THREATENED

Universal telephone service can only be provided by healthy local companies. Yet the Committee bill weakens the financial viability of these companies by creating great uncertainty about their financial status and operating conditions.

On Friday, September 30, 1983 the new regional Bell telephone companies, who will be independent of AT&T on January 1st, filed over 550,000 pages of access charge tariffs. If S. 1660 becomes law, these tariffs, as well as requested long-distance reductions, will have to be withdrawn or amended significantly. New tariffs will have to be filed. Although the bill provides interim FCC authority, it is unlikely that a complete change of tariff withdrawal or

amendment could be accomplished in time for a successful divestiture. The September 30 filings required 3,600 man years of work. How can that be duplicated within a few weeks?

Even if it could, it would be a hasty patchwork process. Divestiture would go forward but could also be so confused and uncertain for the public and the financial community that the telephone companies' financial status would suffer greatly in the process.

Incredibly, this major area of concern was not looked at in any way in the hearings held by the Committee. The Committee had no economist and no representative of the financial community before it to testify on the impact the legislation might have on the new Bell telephone holding companies and their ability to raise capital in financial markets.

Beginning in November 1983 some or all of these companies will begin listing their stocks on the New York and other stock exchanges. If their stock is not attractive to prospective investors, it would have a devastating effect on the financial viability of the companies. Since the tariff withdrawal and new filings caused by the Committee bill would create tremendous uncertainty in financial markets, the value of the companies' stocks will be put in serious doubt. This uncertainty is not limited to the Bell companies. Other telephone companies must also continue to raise capital. Uncertainty created by S. 1660 may affect their cost of capital causing higher telephone rates in their areas as well.

This just underscores what I have been saying, that we do not have nearly enough information to act on a matter of such great importance.

EMPLOYEES, SHAREHOLDERS AND RETIREES

The Bell System has presently nearly 1 million employees, 3 million shareholders and several hundred thousand retirees on pension. There are also roughly 80 million residence customer access lines and 20 million access lines for business customers. All of these people and organizations depend on a financially healthy telephone company, whether local or long distance, to provide things like good, reliable service, jobs, dividends, pensions and so forth. If we place these companies in an uncertain financial position by creating even greater uncertainty at the time of divestiture, what will the impact be? The value of the stock and therefore, the value of the companies' various pension plans could be adversely affected. The ratings of each company's bonds and, thus, its cost of capital could be adversely affected. The period of transition is too critical for these companies and the people they serve to take hasty and uninformed action as has been done in the Committee.

THE LONG-DISTANCE DECREASE WILL BE WITHDRAWN

On October 3, 1983, AT&T filed a long-distance decrease tariff amounting to $1,750 million. This was a direct consequence of the filing on September 10 by the telephone companies for access charges. If it were not for the access charge which reduces the costs which must be recovered through long-distance rates, AT&T not only would not be able to ask for the rate decrease but has said it will be forced to seek a rate increase.

The FCC believes the long distance reduction should be larger, more like $3 billion. We will not know the final outcome until the FCC rules, but certainly the public will understand that their long distance bills will be lowered by at least $1,750 billion. The full details on the filing are in the thousands of pages of papers filed October 3, but it will certainly be the largest telephone rate decrease in history, whatever the amount. These tariffs would also have to be withdrawn if the bill is adopted.

Alaska and Hawaii have always been on a different and higher rate schedule than rate schedules for the mainland. I understand the new lower long distance rates as filed on October 3, 1983 propose consolidating those States with the rest of the country as of January 1, 1984. This will be a great savings for those States, and no legislation is needed to carry it out.

And who is paying these long distance rates that will go down? The majority of interstate long distance users are residences. Over 55 percent of interstate long distance revenue comes from residence customers. More and more the big customers and the residential users with big bills in the urban areas are going with companies who offer lower priced service. The largest customers are building bypass systems. That leaves all the folks in the small towns—which the competitors often do not serve—to pay the higher long distance charges. This means the bulk of ordinary citizens, who have no reasonable alternative, must pay the cost of the subsidy. These are the people who will pay if Congress postpones the FCC decision.

I believe the public will understand that it was the Congress that caused this long distance decrease to be withdrawn. The local rate will continue to go up even if we pass this bill, and by its action the Congress may force the long distance rates up too. Moreover, the potential impact of removing this decrease has not been fully understood. It could have the same impact on the AT&T stock that forcing withdrawal of the access charges may have on the stock of the local telephone companies. We simply do not know.

LOCAL TELEPHONE RATES

Local telephone rates will not go down if S. 1660 is passed. In fact, local rates will continue to go up because of increased costs, like labor, taxes, materials, increased depreciation, capital recovery needs and other factors. Congress must not deceive the public into thinking it will prevent increases in local rates. These was much talk at the markup about the $2 residence access charge and what a disaster this could be for the public. I even recall the argument that this would be something like a 25 percent increase for local customers. That is not correct.

The nationwide average customers bill is $37. Of that amount about half, or $18.50, is long distance, both interstate and intrastate, and the rest is represented by the local rate, equipment, installation and other services. So we are not talking about $2 on a local rate base of $8 or $10. We are talking about $2 on an average total bill of $37.

And even that is not the whole story. Interstate long distance rates will be reduced if we let the FCC plan go into effect. The

impact on an individual customer cannot be calculated without knowing the size of his or her long distance bill and what actions the States will take on long distance and access charges within the State. Some will have State access charges, some will not. In one State (Michigan), the State and interstate picture is now clear. The net effect will be only 97 cents on an average customer bill of $35. I suggest that if the Committee took the time to gather the information as we should, we would find that for the average customer nationwide there will be little net change in his or her total bill, certainly under $1 per month. And yet for less than $1 per month for the average customer, the Committee is acting without adequate facts in the span of a few months to revise an FCC action that was 5 years in the making.

Another question the Committee did not examine is how high local rates set by the States are actually increasing. Certainly there have been large rate requests, but are the approved rates increasing at a great pace? The facts are to the contrary. Over the last 3 years there has been a significant decrease in the amount of rate increases granted to Bell operating companies by State regulatory commissions. There has been a steady decrease in both the gross amount awarded and the percentage of the amount of the original request that was ultimately granted.

In 1981, for example, the Bell companies were granted $3,100 million, 61 percent of the total amount requested. The gross amount awarded in 1982 fell to $2,300 million, and the percentage granted of the amount requested also fell to 56 percent. Through September 15 of this year, State commissions granted only 37 percent of the amounts requested; the total of increases granted so far this year has fallen to $1,300 million.

The percentage of increase in actual dollars derived from these rates increases has steadily declined since 1981. In 1981 the $3,100 million rate increase resulted in an 8 percent increase in revenues. In 1982 the rate increases produced a 7.1 percent in revenues. Though mid-September of this year, there has been a 5.2 percent increase in revenues to the BOC's from State rate increases.

I will relate a recent example from the State of North Carolina to illustrate my point. Southern Bell had submitted an increase request of 57 percent for the residential rate—from $11.15 to $17.50. The North Carolina Utilities Commission acted on this request on September 14, 1983, and granted an increase of only 40 cents. The 3.5 percent increase will take the rate from $11.15 to $11.55.

THE IMPACT OF BYPASS

Bypass may be the single most significant threat facing the local telephone operating companies today. The Committee has no record to speak of on bypass; what it is, its impact and the like. Yet we make it subject to substantial penalities. What is bypass?

Bypass occurs when a telephone call orignates or terminates without using the local telephone plant. Bypass is the capability of a customer or interexchange carrier to provide long distance or local service without access to local operating company facilities.

Many bypass technologies and services exist today. Here is a brief list of the major ones: high power satellite systems, private

microwave systems, coaxial cable used in two-way cable television systems, optical fiber, cellular radio, teleports, FM subsidiary radio, multiple access radio, common carrier paging, specialized mobile radio systems, and private carrier paging systems.

The reason the potential impact of bypass is so great to local companies is that only 5 percent of a local operating company's customers generate 50 percent of the company's total revenue. To repeat, 5 percent of the customers—primarily large business customers—generate 50 percent of the income. These large users are precisely the ones who will seek alternatives to the public switched network when they are required to pay subsidy costs will beyond those costs they themselves cause.

Similarly, 2 percent of the customers generate 40 percent of the revenue and 1 percent generate 30 percent. Clearly, if a local operating telephone company loses a substantial number of these largest users, either the viability of that company will be threatened or rates for remaining customers will be raised drastically. The real issue, and one that the Committee certainly should have examined, is the potential significant revenue loss and erosion of the customer base that can be caused by bypass. When bypass occurs, those business and residential customers for whom bypass may not be an option will be forced to pick up the cost of the remaining idle, installed plant. The result is higher prices for the remaining customers.

This is not to say that customers or local telephone companies need suffer as a result of bypass. The same technology that is available to bypassers can be used in conjunction with, rather than in lieu of, local exchange plant, thereby expanding the kinds of services offered by the local telephone company. For example, the standard copper pair can be used to carry 64Kbps for almost 3 miles without the use of repeaters. Thus, any customer within that radius of a central office could be provided with: security alarms, meter reading, interactive terminals, facsimile, slow-scan TV, high fidelity audi, and bulk date transmission for small computers.

The capacity of the customer loop can be increased, thus resulting in a fully integrated, all digital network, offering a full range of services. If, however, policies are adopted during the FCC 6-year transition period which cause the local operating companies to lose a significant share of their large customers, the companies will not be in a position to integrate these new technologies or compete efficiently or effectively with the new bypassers who are able to use the newest technological innovations.

Finally, the difference between economic and uneconomic bypass should be fully appreciated. Economic bypass occurs when the service provided by the competing technology is cheaper than the cost at which the operating company can offer the same service. No one is seeking a prohibition of economic bypass. "Uneconomic" bypass, on the other hand, occurs when the rates of either the competitor or the operating company include subsidies and do not reflect true cost. "Uneconomic" bypass will occur when a system of subsidies is retained in a cost-based environment.

In my opinion, S. 1660 does not adequately address the bypass problem and may encourage "uneconomic" bypass. Unfortunately, the hearing record is inadequate on this subject.

COMPETITIVE CARRIERS ACCESS FEE

Because of the failure of the Committee to adequately examine all the issues, it also has overlooked a critical matter affecting interstate competition. Residential customers are not the only one who would pay an access charge. Unfortunately, we have had no opportunity to consider what may be a serious blow to competition in the long distance telephone market, at least in the short run. The imposition of access charges by the FCC, which will bring gradually increasing charges for competitive carriers and lower charges for AT&T narrowing the present differential, requires no immediate upgrading in the quality of access provided to the competitive carriers. For example, a customer of one of the new interstate carriers, such as MCI or SPRINT, must presently dial 23 digits to complete a call and may only use a touchtone telephone. By contrast, an AT&T customer need only dial 10 or 11 digits and may place the call from any telephone, even a rotary dial phone.

These and other major differences result from inferior access. While the FCC and the Department of Justice have called for changing the grade of service in three steps over the next 3 years, the higher access fee will go into effect in January 1984 before the first improvements are required in September 1984. The problem caused by the delay in upgrading service has been lost completely in all the attention devoted to residential access fees and the bill should be referred back to the Committee for further hearings on such an important matter.

DEVELOPMENT OF NEW TELECOMMUNICATIONS TECHNOLOGY

There is a reverse side to the bypass issue. If the action we take is too harsh, we may wind up discouraging the development of new communications technologies. The key would seem to be allowing the technology to be used by all providers on the basis of cost without imposing subsidies. That is not the approach of S. 1660.

We have no good information on bypass, yet the Committee bill would let a new Federal bureaucracy, the Joint Board, impose a set of major charges on transmission facilities whether connected or not to the telephone network. It is unclear whether the bypass penalty is a single charge or annual one and whether separate charges will apply in the territory of every telephone company. A "taxing" approach like this will certainly discourage the development of communications technology if the penalties are set too high. New technologies should be developed and used by new carriers and telephone companies alike on the basis of cost and equal connection capabilities.

Creating a permanent regulatory bureaucracy with power to impose a penalty of up to $100,000 each, possibly annually, on radio or fiber optics or cable TV or microwave or satellites, as S. 1660 will do, could make these technologies uneconomic as a communications means. America needs to develop these technologies to remain the world leader—not put in place a mechanism that could stifle them. Again, the Committee does not have adequate information on which to act.

NEEDY AND RURAL CUSTOMERS

The legislation agreed to by the Committee purports to assure continued provision of universal telephone service. However, those who might not be able to afford telephone service, that is the needy and rural customers, do not clearly benefit under the Committee proposal to any greater degree than they would under the FCC's approach and, in fact, rural customers benefit to a much lesser extent.

Under the FCC's Universal Service Plan, high-cost service areas would receive at least $900 million in rate support, beginning in 1985. Under the Committee approach, the level of support is estimated at $200 million. The Committee's fallback from the earlier $1,800 million rural support fund in the original S. 1660 was accomplished by excluding from high cost support those telephone companies who have more than 50,000 access lines, who do not have an REA loan or who have more than $1000 million in gross revenues. What this means is that the customer in a high-cost or rural area that happens to be served by a company with 60,000 access lines is treated in a discriminatory fashion. In my State of Arizona, at least two companies, Mountain Bell and Continental Telephone, and their customers, would be excluded. This restriction may cost Continental alone over $5,370,000 annually, money it could have used to hold down local rates in Arizona alone. I should point out that Continental in Arizona is dominated by rural communities. Its 15 offices are typically under 2,000 lines.

The needy will benefit under the FCC's proposed plan because it allows and encourages a waiver of residence access charges for customers of State regulatorily approved lifeline service. This new type of service would be a low cost, local telephone service option for targeted groups like the elderly, the poor or the unemployed.

S. 1660 takes an entirely different approach. It creates a new fund, estimated at $200 million, but of an uncertain amount, to provide a subsidy for lifeline service collected from interstate carriers. The bill provides that even persons of "moderate" income could qualify. Since we have no record on this point, there is no way to know exactly how large the fund will be or will grow. Again we do not have the information we need.

Nor has the Committee recognized another crucial fact directly affecting the financial health of rural telephone companies. Even though a rural company may qualify under the Committee bill for financial support from the high-cost fund, it may lose over half of this financial aid due to a fund adjustment formula that reduces the benefit to the local company on account of individual company capitalization. The method which the Joint Board chooses for calculating the payments out of the fund may determine whether or not some local companies will survive. Unless the bill forbids the capitalization formula from being used, the adjustment takes away with one hand what the fund is supposed to give with the other. Yet the Committee has acted as if it did not even know the problem exists. This, too, is reason enough for referring S. 1660 back to the Committee for further examination.

CONCLUSION

No evidence has been presented to the Committee establishing any serious ground for belief that the FCC access charge will disrupt universal service. In fact, the Committee bill, S. 1660, will do nothing for universal service in 1984 and 1985 that the FCC plan will not do.

Suspending the small access fee will not provide universal service, nor does S. 1660 require that a universal service fund be set up until 1986, the same year that the much larger universal service fund of the FCC would be established.

Contrary to the rhetoric of the advocates of S. 1660, the FCC does not give a free ride to interstate carriers. All or most of the burden is not shifted to residential or business customers of local telephone companies. Interstate carriers will continue to pay an estimated $13 billion under the FCC decision in 1989: $10 billion for use of traffic sensitive local equipment, $1 billion into a universal service fund, and $2 billion of nontraffic sensitive costs which the FCC would move to the traffic sensitive category. In comparison, end use customers of local telephone companies will pay $5,700 million at most and likely less, under the FCC plan by 1989.

The Committee bill will harm long distance callers, hinder the use of new technology, reduce financial support for rural areas, and upset the financial picture of newly independent telephone companies. It should be defeated.

BARRY GOLDWATER.

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